

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

## **SECTION 1: Planning Applications SECTION 2: Planning Appeals**

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

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## 1. PLANNING APPLICATIONS

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

**Item** 1.1

**Reg. No.** 9/2013/0037/U

**Applicant:**  
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**Proposal:** **CHANGE OF USE TO A GYPSY CARAVAN SITE FOR 3 CARAVANS TO ACCOMMODATE 1 FAMILY (AMENDMENT TO EXTANT PERMISSION REF: 9/2005/1390) AT LAND NORTH OF CAULDWELL ROAD LINTON SWADLINCOTE**

**Ward:** **LINTON**

**Valid Date:** **24/01/2013**

**Reason for committee determination**

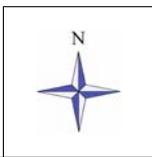
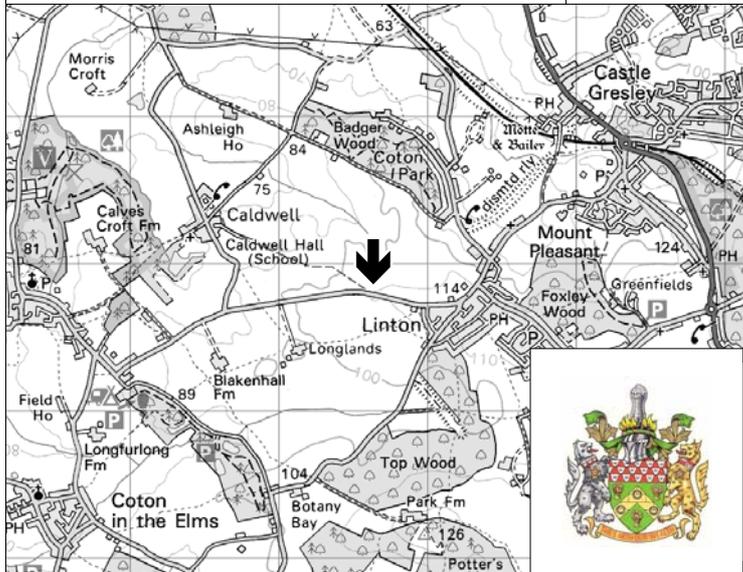
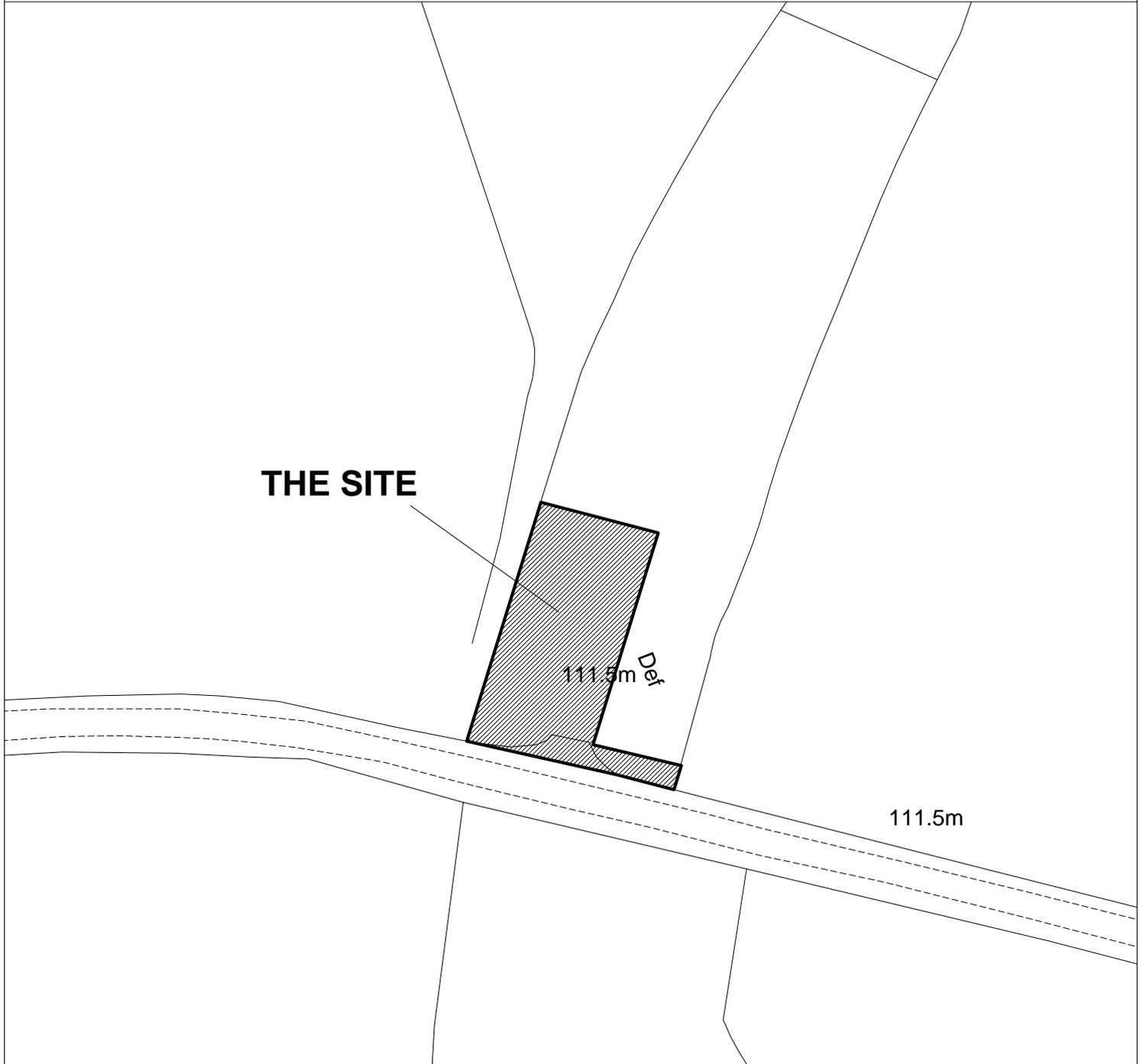
The application is brought to Committee at the discretion of the Head of Community and Planning, as there are likely to be issues that need to be debated.

**Site Description**

The application site comprises an area of land of approximately 0.10ha situated in open countryside outside the settlement of Linton. It is enclosed by fences and hedges to the east, west and north, together with an unauthorised 1.14m high stone wall with 2.4m high stone gate piers along the southern boundary. The site forms part of a former railway cutting that was closed and filled with commercial and non-hazardous waste and asbestos during the period 1970 to 1989, after which time it was capped with clay and covered with top soil.

**Proposal**

The proposal is for the change of use of the land to a Gypsy Caravan site for three caravans to accommodate one family and one touring caravan, being an amendment to an extant planning permission (9/2005/1390), which was granted on appeal in August 2007, subject to conditions. The current proposal also includes the lowering of the front boundary wall and gate piers from 1.4m high and 2.4 m high respectively to 0.98m high, and their cladding in timber spaced boarding, which would be painted green to



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assist its assimilation into the rural landscape. The submitted plans also show some landscape planting behind the wall so that its impact is further reduced.

### **Applicants' supporting information**

A Design and Access Statement (DAS) has been submitted in support of the application, a copy of which is on the Council's website. For ease of information, however, the salient points of the DAS are as follows:

- There is an extant permission granted on appeal and all pre-commencement conditions were discharged within time. However unauthorised works were also carried out resulting in enforcement action, which delayed any further works from being carried out.
- The application is for an amended and improved scheme so that the outstanding and unauthorised works can be resolved, the land tidied up and the intended development completed.
- The area to be used as a Gypsy and Traveller site would remain the same as that approved at appeal, although the approved vehicular access has been moved to the eastern side of the site and a visibility splay now included within the red outline.
- Highway safety would be improved as a result of the relocation of the vehicular access. Vehicular access, parking and turning would all be facilitated within the site by the re-arrangement of the caravan bases.
- The number of permanent caravan bases has been reduced from four to three and their positions altered to facilitate the provision of services down the western side of the site, particularly foul drainage.
- The previously approved toilet/shower block has been deleted from the scheme as services can now be connected to the individual caravans. The location of the proposed package treatment plant has been amended, now being sited to the rear of the site where a falling gradient permits a gravity drainage system without any risk of penetration of the clay cap.

### **Planning History**

9/2001/0814 – Siting of five caravans – Refused. Subsequent appeal dismissed on the grounds of land contamination.

9/2004/0980 – Use of land for Gypsy caravan site – Refused on the grounds of land contamination.

9/2005/1390 – Change of use to Gypsy caravan site for three families (subsequently altered to the siting of four caravans (one of which would be a tourer) to accommodate one family – Refused on grounds of land contamination. Subsequent appeal allowed subject to 16 conditions.

Appeal against Enforcement Notice (APP/F1040/C/09/2103596-7) re: Change of use of land from redundant landfill site to use as a gypsy site facilitated by importing waste materials to raise the levels of the land, installation of services, the laying of concrete bases and erection of a boundary wall in excess of 1m high adjacent to the highway without planning permission – public inquiry – Appeal dismissed 1/12/2009. [It should be noted here that the site subject of the enforcement appeal was not the current application site, but land that wraps around the site, although there is no physical separation between the appeal site and the current application site. It should also be noted that, at the time of the enforcement appeal Inquiry, planning permission had already been won on appeal for the current site (see 9/2005/1390 above). The application was supported by a gas emissions and soil contamination survey undertaken by the Centre for Land Evaluation and Management at the University of Derby, with the Inspector concluding that there was no unacceptable risk to health and safety of future occupiers as the site was found to be unaffected by gas emissions.]

### **Responses to Consultations**

The Environmental Health Manager does not consider that the proposal would have any major impacts with regards to contaminated land. However, the site is in very close proximity to an ex-landfill site (Ref LL05) surrendered in 1990. This would, under certain circumstances present a ground gas risk to development in the surrounding area but given this proposal, the gas ingress possibility is not such a concern. As a precautionary measure it is suggested that a standard contaminated land condition is imposed. With regard to the clay cap, from the Council's records the plots and service trenches are not on the clay capped areas. A condition requiring geo-investigation that work would not compromise the capping system would address the issue, details of which should be submitted to the Local Planning Authority before any works commence on site.

The County Highway Authority has no objections subject to the inclusion of conditions in respect of the vehicular access, provision of space for the parking and turning of two vehicles per pitch, provision of parking and manoeuvring of service vehicles and provision of a refuse bin collection point within the site.

The Environment Agency has no objections to the proposal.

The County Archaeologist is satisfied that the proposal would have no archaeological impact.

### **Responses to Publicity**

The Chairman of Linton Parish Council has raised a number of concerns with regard to the present proposal. Briefly, these can be summarised as follows:

- a. Previously imported waste (unauthorised) remains on site despite a dismissed appeal against its retention. What order will be placed on the applicants to remove it?
- b. There is inaccurate and/or a lack of information on the application forms in respect of:
  - pedestrian and vehicular access
  - waste storage and collection

- parking
- foul sewage disposal without penetration of the clay cap
- flood risk
- contamination
- trees and hedges
- trade effluent
- residential units
- hazardous substances
- insufficient detail on the submitted drawing
- sinking of fence posts without penetrating clay cap
- connection of water and electricity
- maximum number of residents on site at any one time
- parking of residents' vehicles
- no open fires or barbecues are allowed
- transmission of generator noise to nearby properties
- fire precautions
- previous planning permission has lapsed so this should be treated as a new application.

One email and two letters have been received, which make the following points:

- a. Publicity has not been properly undertaken.
- b. Past record of the applicants and their mis-use of the land.
- c. Provided that the level of works proposed in the application are adhered to, there are no objections but there are concerns that this is merely a 'foot in the door' for further development of the site.
- d. Proper safeguards should be put in place to ensure this does not happen.
- e. This is the 'thin end of the wedge' with regard to the future of the site.
- f. Concern regarding theft from nearby houses.
- g. General untidiness and rubbish accumulating on the site.
- h. All conditions previously imposed should be enforced against.
- i. SDDC should carry out regular checks to ensure all conditions are being adhered to.

Linton Parish Council objects to the application owing to certain uncertainties and irregularities that contravene the original planning application, which has now lapsed and a completely new application must be sought. The contraventions include:

- erection of an illegal wall
- dumping of unlicensed contaminated soil waste
- puncturing of the clay cap
- open fires
- illegal tipping
- illegal ground levelling
- failure to adhere to enforcement issues
- inaccurate and incomplete information on the application form
- root penetration of clay cap
- insufficient detail on submitted plans

The Parish Council reports that other comments made by parishioners include:

- a. Fires previously lit over a bank holiday weekend, therefore conditions will need to be imposed to prohibit this.
- b. Is the proposed gate going to be kept shut to prevent straying dogs and children onto the highway?
- c. What assurances are there to preclude the gradual extension of the site?
- d. The road is not suitable for the constant turning of caravans and trailers that would be expected on a transient site.
- e. Why is there no contamination report? Only the basic information has been submitted.
- f. Is there an intention to keep horses on the site?
- g. The safety of Linton residents and the future residents of the site is paramount.

### **Development Plan Policies**

The relevant policies are:

Local Plan Saved Policies: Environment Policy 1, Housing Policies 8 and 15, Transport Policy 6

### **National Guidance**

National Planning Policy Framework (NPPF) Companion Guide 'Planning Policy for traveller sites' Policy C (paragraph 12): Sites in rural areas, and Policy H (paragraph 23): Determining planning applications for traveller sites in the countryside

### **Planning Considerations**

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

- The principle of the development
- The impact of the development on the character and appearance of the area
- Access and highway safety
- Inaccuracies of the application

### **Planning Assessment**

#### The Principle of the Development

Members will be aware that an appeal decision is an important material planning consideration when determining a planning proposal. In this instance, planning permission was granted on appeal in 2007 for the siting of four caravans on the site, including one touring caravan, to accommodate one family, the erection of a toilet and shower block and the siting of a package treatment plant. The Planning Inspector, in her appeal decision, considered that the main issue was whether future occupiers of the site would be at risk from landfill gas emissions and / or the presence of asbestos waste.

Having given due consideration to all the issues with regard to ground contamination, the Inspector concluded that: *'It is clearly essential that if the development proceeds, the clay cap should remain intact and the appeal site separated from the land beyond, where any risks to occupiers, albeit low, are of greater concern. This would prevent the residential use of the site spilling out beyond the appeal site and being used*

*inappropriately. To conclude on the main issue, I am satisfied that the proposal would deliver an appropriate development and that the risks are sufficiently well known to render the proposal acceptable. It would not conflict with Housing Policy 15 of the South Derbyshire Local Plan in that I find it acceptable in environmental terms'.*

With regard to other matters raised the Inspector found no further planning reasons on which to dismiss the appeal, and her overall conclusions was that the development *'would not result in an unacceptable risk to the health and safety of the appellant and his family or others ... I conclude the appeal should be allowed'.*

In light of the appeal decision and the fact that the current application involves a reduction in the number of caravans proposed for the site, the removal of the toilet and shower block and re-siting of the package treatment plant, it is considered that the principle of the development has been accepted and established. There is no recent policy published since that decision that would alter this.

#### The impact on the character and appearance of the area

All three bases for the caravans would be within the site that was approved at appeal, one caravan behind the other with space for parking between each caravan. The site has been widened by approximately 3m to the east to allow for a centrally positioned vehicular access into the site, however the site proposed for the siting of the caravans remains the same.

The lowering of the front boundary wall and piers and the proposed cladding of the structure in timber close-boarded fencing would reduce the impact of this urban feature on the rural landscape and therefore the impact on the character and appearance of the area would be considerably improved. Furthermore, the removal of an existing concrete base to the front of the eastern-most part of the site would further enhance the site's appearance.

It is considered, therefore, that the impact on the character and appearance of the area would be an improvement to that which was granted on appeal.

#### Access and highway safety

The comments from the County Highway Authority indicate that there are no objections to the proposal subject to conditions and therefore the application should not be refused on grounds of highway safety, as it is considered that the required conditions can be met by the applicant.

#### Inaccuracies of the application

1. Previously imported waste - This issue is more likely to be addressed once the owners have moved on to the site, as it should then be possible to enforce the findings of the enforcement appeal when the site owners are present, (although a balance needs to be considered as to whether it remains in the public interest to enforce the removal of the inert material).
2. Inaccurate and lack of information on the application forms - This is addressed as follows:

- Pedestrian and Vehicular Access. Although, technically, a new pedestrian and vehicular access is proposed when compared to that of the original application granted on appeal, the access is, in fact, in situ, albeit unauthorised, and this application seeks to retain it. Therefore it is considered that the application forms have been completed correctly in this regard.
- Waste storage and collection. It has been confirmed that an area for recycling and domestic dustbins would be provided adjacent to the individual caravans in a suitably discreet location. No other rubbish or waste would be brought onto the site, which would be kept tidy at all times.
- Parking. Travellers and Gypsies generally have extended families that run businesses, which require the use of cars and vans. The provision and location of car parking spaces is one of the conditions required by the Highway Authority.
- Foul sewage disposal and soakaway without penetration of the clay cap. Although it is usual to require the submission and approval of drainage details by condition, owing to the sensitive nature of the development further clarification has been sought in this regard. The Biodisc Treatment Plant would be located in the position shown on the plans submitted to and approved to discharge Condition 10 of the Appeal Approval, i.e. within the 'blue' land to the north of the application site. It would stand on the surface 125m back from the road beyond the raised area in order to take foul drainage at a suitable height within the need to elevate the drainage pipework.
- Contamination. Clearly the site has been contaminated as a result of its previous use as a tip and the application form should make reference to this fact. However, given the Planning Inspector's decision with regard to the substantial possibility of decomposition since the site was closed and the nature of the infill material used for the first 50m or so of the cutting, the validity of the information on the application form is academic. The ground well beneath the surface may be contaminated but above this are the clay cap, subsoil and topsoil layers and a further layer of imported inert material, all of which are not contaminative. These inert layers would not be punctured through to the ground below the clay cap by any of the development proposals.
- Trees and hedges. It has been confirmed that all existing trees and hedges along the boundaries of the site are to remain in place and none would be affected by the development proposals.
- Trade effluent. No commercial waste or trade effluent would be allowed on the site and no physical commercial activity would be carried out on the site at any time.
- Residential units. Whilst it is believed that this section of the application form should be answered in the affirmative, Gypsy and travellers sites are deliberately distinguished from all other development including residential, and there is always an important distinction drawn between the siting of caravans and the use of structures for residential purposes
- Hazardous substances. There is no way of knowing at this point in time whether LPG gas or other forms of energy, such as electricity, would be used for cooking within the caravans. If LPG is to be used, the tanks would be sited outside the individual caravans.
- Insufficient detail on the submitted drawings. Whilst it is acknowledged that the submitted drawings contain a minimum of detail, they are not so deficient as to warrant the application being classed as invalid. Such details as surface water runoff and other drainage issues, parking, landscaping, etc., are usually the subject of planning conditions, particularly where the principle of the development

has already been established. Similarly, there would be no reason to refuse permission based on the information (or lack of it) on the submitted plans. It should be noted also that the quality of the submitted drawings is similar to that submitted for the 9/2005/1390 application that was subsequently allowed on appeal. If the Inspector had considered that the quality of the plans was so deficient, she would have had good cause to dismiss the appeal on grounds of insufficient information.

- Sinking of fence posts without penetrating clay cap. The agent argues that the clay cap in the vicinity of the proposed fencing is well in excess of 1m below surface level and that fence posts would not penetrate more than 800mm and therefore the clay cap would not be pierced by any of the development proposals. Further investigation indicates that the Council dug 6 trial holes in 2010 over the entire site (the current application site and the enforcement site), when it was established that the clay cap is only 0.5m and 0.7m from the surface in parts, although the precise locations of those trial holes are not clear. There is nothing on record to show that any of the trial holes were actually dug within the current application site, although, according to the Council's Environmental Health records, there is a possibility that 1 or 2 were. That said, the 2007 appeal drawing clearly shows the intention to provide a new hedge and post and rail fencing along the western boundary of the site. In allowing the appeal the Inspector took account of the provision of the hedge and fencing, which is acknowledged in a condition that would be repeated in the event of planning permission being granted so that the integrity of the clay cap would not be compromised.
- Connection of water and electricity. The agent maintains that a mains water connection was made in the highway to the south of the site and pipes were laid to upstands in three positions on the site and these connections were confirmed as being made within a letter from the Local Planning Authority in March 2012. Mains electricity cables cross the site from east to west with an electricity pole located a few metres to the west of the site on Cauldwell Road.
- Maximum number of residents on site at any one time. The application is to provide accommodation for one family and it would be unreasonable to condition the maximum number of people that constitute a family. Such a condition would therefore be *ultra vires* in planning law and thus open to challenge.
- Parking of residents' vehicles. There is sufficient space to park residents' vehicles between the caravans (at the eastern end of the caravans) whilst leaving a suitable area at the western end for amenity space.
- No open fires or barbecues are allowed. The condition on the appeal decision actually states that: *No burning of materials shall take place on the site or adjoining land shown edged blue on the application plans*'. There is no indication that this condition relates to such domestic activities as barbecues. However, it is recognised that the original condition should be placed on the new planning permission.
- Transmission of generator noise to nearby properties. This issue would be covered by environmental health legislation should it arise in the future. However, the provision of mains electricity to the individual caravans would negate the need for a generator on site, thereby resolving this concern.
- Previous planning permission has lapsed so this should be treated as a new application. The planning permission that was granted on appeal remains extant as all the pre-commencement conditions were discharged and a start was made on site by way of providing a drainage trench, although further works are required

to comply with the approved plans. Whilst the current application has been considered afresh as an amended scheme, as already explained, the previously approved scheme confirms that the principle of the development has been well and truly established.

### Conclusion

Notwithstanding some of the concerns expressed regarding the proposals, given the improved nature of the scheme and, in particular, the outcome of the appeal in 2007, it would be difficult for the Local Planning Authority to substantiate a refusal of this application. Guidance in the National Planning Policy Framework states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions and that those conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. It is considered that the current scheme can be made acceptable by the use of conditions and these are set out below.

The unauthorised tipping of material on the land took place on land outside the current application site. The enforcement appeal decision upheld the 90-day timescale for the removal of the unauthorised material, as well as the reduction in height of the front boundary wall, the cessation of the use of the site as a Gypsy site and the removal of one of the concrete bases. So far, this has been impossible to enforce as the owners disappeared following the enforcement appeal decision. The current application, if approved, would allow the Council an opportunity to redress the requirements of the enforcement notice should the applicants take up the planning permission, (i.e. the removal of the unauthorised material and the concrete base on the eastern part of the site, together with the recovery of the award of costs). All attempts at contact and debt recovery have been unsuccessful as there was no known address from which to contact the owners of the site.

This application site specifically excludes the enforcement appeal site (other than a narrow strip of land to allow for a central access), and concentrates all development on the site allowed at appeal in 2007, although the package treatment plant to serve the proposed development would need to be positioned to the rear of the application site, owing to the fall of the land. This was the enforcement appeal Inspector's preferred location.

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 condition:

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

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

2. The site shall not be occupied by any persons other than Gypsies and Travellers as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: The residential use of the site by any other member of the community would be contrary to the provisions of the development plan, particularly Saved Local Plan Housing Policy 8 and Environmental Policy 1.

3. No more than three static caravans and one touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any one time.

Reason: As applied for and for the avoidance of doubt.

4. The clearance of the site and site surfacing shall be carried out in accordance with the previously submitted scheme received on 7th July 2008 that has already been approved in writing by the Local Planning Authority. The site shall not be occupied until the agreed scheme has been implemented in accordance with the approved details.

Reason: In the interests of the character and appearance of the site and the surrounding rural area.

5. No commercial activities whatsoever shall take place on the land, including the storage of materials.

Reason: In the interests of the appearance of the site and the character of the rural area.

6. No more than two commercial vehicles, which shall not exceed 3.5 tonnes in weight, shall be stationed, parked or stored on this site.

Reason: In the interests of the appearance of the site and the character of the rural area.

7. The boundary treatment of the site shall be carried out strictly in accordance with the plans approved as part of this application, unless otherwise agreed in writing by the Local Planning Authority.

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

8. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding or turving comprised in the approved details of landscaping, which shall include details of associated earth works necessary to avoid any breach of the clay cap, shall be carried out in the first planting and seeding seasons following the occupation of the caravans or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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 approval to any variation.

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

9. Prior to the occupation of the caravans hereby approved, a remediation validation report along with a signed copy of the attached certificate shall be submitted to the Local Planning Authority.

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

10. The method for the disposal of foul and surface water shall be carried out in accordance with the scheme that was received on 7th July 2008 and approved in writing by the Local Planning Authority in order to discharge Condition 10 of the appeal decision APP/F1040/A/06/2032633 unless the prior written permission of the Local Planning Authority is granted for any variation.

Reason: In the interests of flood risk and to ensure that the site can be satisfactorily drained.

11. Prior to the first occupation of the site, the access shall be surfaced in a bound material for a distance of 5 metres back from the highway, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

12. No burning of materials shall take place on the site or adjoining land shown edged in blue on the application plans.

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

13. The caravans shall be sited on the land in accordance with the details shown in the approved plan, Drawing No. S263/A/001 unless the Local Planning Authority gives consent to any variation.

Reason: For the avoidance of doubt.

14. Any caravans positioned on the site shall be capable of being towed on the public highway in accordance with the relevant Highways Act legislation, without division into separate parts.

Reason: For the avoidance of doubt.

15. The development shall take place in accordance with the details that were received on 7th July 2008 and approved in relation to the provision of all services (i.e. electricity, water, telephone) unless the Local Planning Authority gives consent to any variation.

Reason: For the avoidance of doubt.

16. Before any other operations are commenced, the access onto Cauldwell Road shall be laid out, constructed, provided with visibility splays extending from a point 2.4m from the carriageway edge, measured along the centreline of the access, the extremities of the site frontage abutting the highway in each direction and the grass verge reinstated all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The land in advance of the visibility splays shall be maintained throughout the life of the development clear of any object greater than 1m in height (600mm in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

17. Prior to the site being taken into use, space shall be provided within the site curtilage for the parking and turning of two vehicles per pitch, laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

18. Prior to the site being taken into use, space shall be provided within the site curtilage for the parking and manoeuvring of service vehicles, laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

19. In order to prevent refuse vehicles waiting for longer than normal on the classified road, prior to the site being taken into use, a bin collection point shall be provided within the site in close proximity to the access and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

20. Prior to the development hereby approved commencing, details of the finished site levels and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed levels.

Reason: To safeguard the character and appearance of the surrounding area.

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

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

22. No development shall take place until a geo-investigation has taken place in the area proposed for the siting of the package treatment plant in accordance with a scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved scheme.

Reason: To ensure the proposed development does not compromise the clay capped areas of the site, in the interests of human health.

#### Informatives:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848.

Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

Any proposals to use the land to the rear of the application site (the blue land) for the stabling of horses will require planning permission.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Environmental Services Department at County Hall, Matlock (telephone 01629 580000 Ext 38595) before any works commence on the vehicular access within highway limits.

**Item**            1.2

**Reg. No.**        9/2009/1026/FX

**Applicant:**  
**Mr R G Beeston**  
**R G Beeston Developments 152**  
**Marlborough Way**  
**Ashby-de-la-Zouch**  
**Leicester**  
**LE65 2QH**

**Agent:**  
**Matt King**  
**Making Plans**  
**5 Twyford Road**  
**Willington**  
**Derbyshire**  
**DE65 6DE**

**Proposal:**        **THE CHANGE OF USE AND CONVERSION OF THE  
PUBLIC HOUSE INTO FIVE APARTMENTS AND THE  
ERECTION OF THREE DWELLINGS AT BARLEY MOW  
PH PARK ROAD CHURCH GRESLEY SWADLINCOTE**

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

**Valid Date:**     **14/12/2009**

**Reason for committee determination**

The application is brought before the Committee because the applicant seeks an amendment to the resolution agreed by the committee on the 2<sup>nd</sup> March 2010. At the committee in 2010 members will recall granting permission for a scheme subject to certain Section 106 requirements and the rendering of the buildings. Given the time that has elapsed since, the report has been fully updated to enable fresh consideration of all the issues.

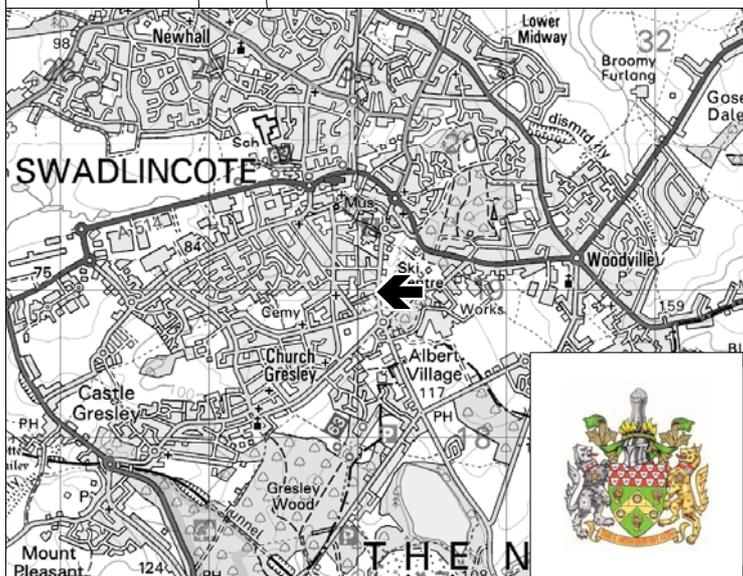
**Site Description**

This 808 square metre site is located on the corner of Coppice Side and Park Road in Church Gresley. There is a two storey vacant public house right on the corner with its main elevation facing south east. There is a single storey outbuilding adjacent to the northern boundary and an enclosed overgrown garden area to the west which has a 0.5m higher land level than the existing buildings to the east. A modern detached property is adjacent to the northern boundary and a pair of semi-detached dwellings to the west which have a higher land level than the site.

**Proposal**

Planning permission is sought for conversion of the existing public house and out building into five 2 bed apartments and the erection of three 3 bed town houses. The external changes to the public house involve removal of the existing porch and insertion of a new window in this area on the front elevation adjacent to Park Road. The three

9/2009/1026 - Barley Mow, Park Road, Church Gresley, Swadlincote  
DE11 9QE



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dwelling would be erected to the west of the public house on the overgrown enclosed garden area. Fifteen parking spaces are also shown (two of which are slightly below the 4.8m length required).

### **Applicants' supporting information**

The Design and Access Statement detail the pre-application process undertaken, the proposed use, amount of development, the layout, scale, landscaping, appearance and access.

A letter from the applicant providing justification for loss of the public house has been received. It states that the site was purchased from Enterprise Inns as the public house had been empty for almost 3 years and numerous previous tenants were unable to make it a viable business. Prior to the site being purchased by the applicant a pub group were interested in this public house and several other pubs in the area, however, this offer was withdrawn due to the decline in the industry. The decline is evident with the Snooty Fox and Chesterfield public houses being demolished for houses and many other pubs boarded up.

### **Planning History**

9/1991/1020 – Erection of detached dwelling on land to the north of the Barley Mow, Granted 12/4/91

9/1989/0034 – Outline – One dwelling on land to the north of the Barley Mow, Granted 17/5/89

### **Responses to Consultations**

The County Highway Authority states that it considers it unlikely that the proposed development would generate more vehicle movements or create a greater demand for parking relative to those that would be potentially generated by the existing use. On this basis it raises no objections. An amended plan has been received to indicate 13 useable parking spaces which equates to 2 spaces per house and 1 for each apartment plus 2 visitor spaces; therefore no objection is raised subject to a condition requiring the parking areas to be laid out.

Severn Trent Water has no objection subject to a drainage condition

The Contaminated Land Officer recommends a phased condition.

Derbyshire County Education Authority has confirmed that no S106 contributions are required as Pennine Way Junior and The Pingle have surplus capacity and are projected to have surplus for the next five years. Church Gresley Infant School is at capacity with the new school being built to accommodate further growth but projection numbers suggest that it could accommodate the one infant pupil from this proposed development.

### **Responses to Publicity**

One letter of objection has been received from a property on Park Road which states that as they were not consulted could the determination date be extended for them to

comment further and consult Local Members. Their main objection is increased traffic on the unadopted Park Road and conditions should be attached that any damage to the road by construction traffic should be repaired in order for the road to be adopted in the future.

The occupier of 143 Coppice Side has confirmed he has no objections to the outbuilding conversion to dwelling and the slight movement in its footprint.

### **Development Plan Policies**

The relevant policies are:

EMRP: 2, 3, 12, 48

Saved Local Plan: Environment 9 and 10, Housing 4 and 11 and Transport 6

### **National Guidance**

NPPF paragraphs 17, 28, 32, 49, 56, 58, 60 and 70

### **Planning Considerations**

The main issues to be considered are:-

- Principle of development
- Residential Amenity
- Design
- Highways Issues
- Section 106 requirements

### **Planning Assessment**

#### The Principle of Development

It is a material consideration that the redevelopment of the site was considered so recently and that members resolved to grant permission albeit for a slightly different scheme and subject to certain terms. There has been no material change to policy principles since then.

The site is located within the urban area of Swadlincote and within an established residential area; therefore residential development in principle is acceptable. The Public House has been vacant for almost 3 years and due to its proximity to the town centre it's loss is not considered to be significant. NPPF Policies 28 and 70 seek to retain public houses in rural areas and provide them in new developments. Therefore there is no local or national policy that would support a reason for refusal on these grounds.

#### Residential Amenity

The nearest dwellings to the site are to the north (No.143 Coppice Side) and to the west (3 Park Lane). No. 143 Coppice Side has its rear elevation facing west and taking a 45° angle from the middle of this property's first floor bedroom window it would meet the middle dwelling's lounge and first floor bedroom window at a distance of 17.5m. The Council's standard for this relationship is 15 metres; therefore there would not be a significant overlooking impact in relation to this existing dwelling. The northern boundary

is screened 1.8 m fence with a 3m conifer hedge behind and thus overlooking at ground floor level is not possible. Overshadowing would not be significant as the properties would be 13m away and main room windows on 143 Coppice Side are on the western elevation.

No. 143 has a kitchen window on the northern elevation adjacent to the outbuilding. The outbuilding is currently 1m from this window and the proposal involves moving this building a further 600mm away from this boundary adjacent to this window. As rooms in the roofspace of the outbuilding are proposed the eaves height would increase by 500mm and the ridge height by 800mm. Due to the building being moved further away from the neighbour's window and the changes in height not being significant, the proposal is not considered to cause any significant overbearing issues. No windows are proposed on the northern and eastern elevations of the outbuilding and thus overlooking is not an issue in this case.

There is a 6m high (approx.) tree in the north western corner of the site which is over the boundary. The nearest property is 6.5m from this tree and therefore on the advice of the Council's Tree Officer, a condition requiring protection during construction of its root protection area is necessary.

No. 3 Park Lane has its gable end 3.5 m from the western boundary and it has one secondary window on the ground floor. This property has a two storey rear extension and there are no windows in the elevation facing the site. On this boundary there is a fence and some hedge planting with a 2.5m high wall running from the centre of the gable and connecting with an existing garage / outbuilding to the rear. A blank gable wall is proposed at a slight angle with this wall at a distance of 1-1.5m. The proposed properties would be set 2.5m back from the semi-detached pair of 3 and 5 Park Road which is similar to the existing public house's set back from the road. Overshadowing of No. 3 Park Road would not be significant, as the property does not have any main room windows on the eastern elevation.

The relationship between the proposed apartments is constrained slightly due to the conversion of the proposed outbuilding adjacent to the northern boundary. This apartment would have its fully glazed main living area and kitchen window on the southern elevation facing the main public house building. Therefore, there would be kitchen window, bathroom and landing windows opposite at ground floor level at a distance of 6.5 - 6.7m. To ensure this apartment has a reasonable level of amenity a condition requiring these ground and first floor windows on the north western elevation of the existing public house building to be obscure glazed is considered necessary. The relationship between kitchen window of this one bed apartment and the kitchen window of Flat No.2 was also a concern at a distance of 2.5m. An amendment to move the window of Flat No. 2 to the southern elevation adjacent to the entrance to this flat has been secured to provide for reasonable amenity.

Rear garden lengths range from 6.7 – 9 metres and are not significantly overlooked by existing properties, which is considered to provide reasonable amenity. However, due to their size and proximity to the rear No.143 Coppice Side it is considered that permitted development rights for extensions and curtilage buildings should be removed by condition.

## Design

In relation to the design of the three town houses, they are two and a half storey properties with an eaves height of 5.3m rising to a ridge of 9m. This ridge height is only 200mm higher than that of the public house and as land levels increase slightly to the west this is considered acceptable. However, the existing houses to the west would still be higher and a finished floor level condition for the proposed dwellings would ensure they fit into the streetscene of Park Road. Overall the design of the dwellings is considered to be in keeping with the streetscene and they would not appear intrusive or dominant. The rendering of properties has been considered as per the committee resolution. However, the applicant wishes to pursue the brick option. It is considered that as there is a mix of properties in brick and render on Park Road this should not be a reason for withholding permission.

### Highways Issues

On the advice of the Highway Authority, the scheme would not cause any undue harm to highway safety. In its response it does acknowledge that the visibility in the non-critical direction when leaving Park Road is limited due to the position of the existing public house on the corner. However, on balance the proposed use is unlikely to generate more vehicle movements than those which could potentially be generated by the permitted use of the site.

The applicant has sought to establish the ownership of Park Road in view of the fact committee felt that if it could be determined then the Public Open Space S106 contributions could be used to re-surface it. The applicant has made inquiries and has been unable to determine its ownership and considers it may be owned by all of the residents. The applicant therefore seeks to gain a determination on the application without this requirement.

### Section 106

A signed unilateral undertaking has been received for the provision of £6,324 for open space, £3,740 for outdoor facilities and £2,074 for built facilities (Total open space contribution £12,138), £4,408 for healthcare provision.

### Other issues raised by the objections

Neighbouring properties within 4 metres of the site boundary were consulted in line with Council Policy and a non-statutory site notice placed on Coppice Side near the site. Damage to the unadopted Park Road is a legal matter and is not within the remit of planning. However, an informative indicating that any damage during construction may affect the future adoption of the road is recommended.

### Conclusion

The main changes from the scheme last considered by the committee are:

- Relatively minor changes to the design/siting and therefore rebuilding of the existing outbuilding
- Brick finish to the new terrace rather than render
- Section 106 funds being proposed for recreation use in the area not for the re-surfacing of Park Road.

In accordance with the assessment above, the scheme is considered acceptable.

## Recommendation

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.  
  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. 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.
4. Prior to the occupation of the first dwelling, the car parking space shall be laid out in accordance with the amended application drawing No. J1405/4 Rev E and maintained thereafter free of any impediment to its designated use.  
  
Reason: In the interests of highway safety.
5. 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.
6. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.  
  
Reason: In the interests of the appearance of the area.
7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar

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

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

8. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

10. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. J1405-1 Rev A, J1405-4 Rev E and J1405-5 Rev G, J1405-6 RevA, J1405-7 Rev B and J1405-10.

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

11. The ground and first floor windows in the north western wall of the existing public house building shall be permanently glazed in obscure glass.

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

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings hereby permitted shall not be altered, enlarged or extended and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

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

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

14. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used unless previously agreed in writing by the Local Planning Authority.

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

15. Prior to occupation of any of the dwellings or apartments a scheme for the allocation of car parking spaces to individual dwellings and apartments shall be submitted and approved in writing by the Local Planning Authority, unless otherwise agreed in writing.

Reason: In the interests of highway safety.

#### Informatives:

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

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips. Potential hazards or impacts may not necessarily be confined

to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas. In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted. Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com). This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990. It should be noted that any damage to Park Road during construction may affect its future adoption.

The grant of planning permission does not entitle developers to obstruct public rights of way (Public Footpath No. 26). 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.

During construction you are requested to ensure that your or any other contractors' vehicles are parked legally and in a manner that shows consideration to the occupiers of adjacent and nearby properties. Thank you for your co-operation. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

**Item** 1.3

**Reg. No.** 9/2012/0909/FM

**Applicant:**  
Mr Alan Hollingworth  
10 High Street  
Ticknall  
Derby  
DE73 7JH

**Agent:**  
Mr Eric Lee  
Eric Lee Architectural Services  
The Stables  
Robinsons Hill  
Melbourne  
Derby  
DE73 8DJ

**Proposal:** THE ERECTION OF AN EXTENSION AND CONVERSION OF EXISTING BARN INTO A DWELLING AT 10 HIGH STREET TICKNALL DERBY

**Ward:** REPTON

**Valid Date:** 06/11/2012

**Reason for committee determination**

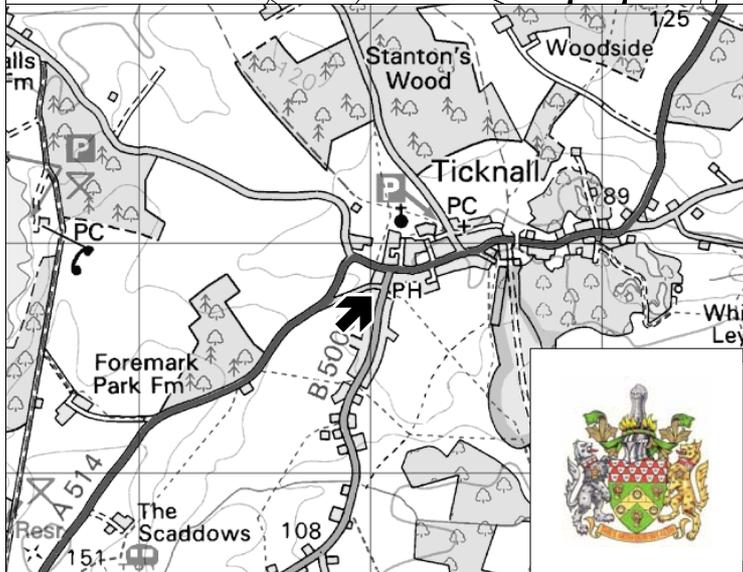
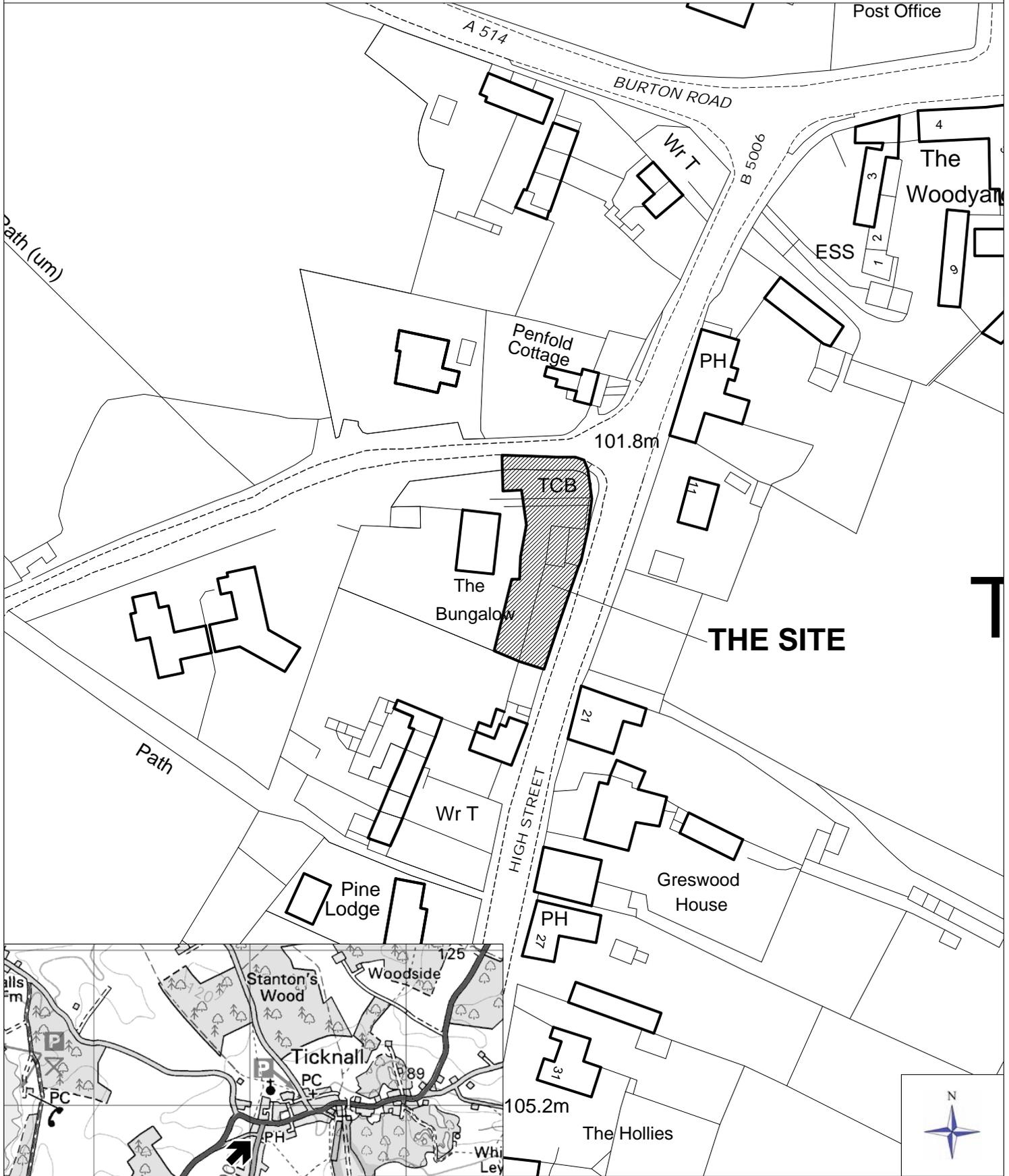
The application has been brought to Committee at the request of Councillor Stanton as local concern has been expressed about a particular issue.

**Site Description**

The application site consists of a cart shed and part of the site frontage of No 10 High Street, an elevated corner plot bordered by High Street and Narrow Lane situated within Ticknall village confines and occupied by an existing bungalow, detached garage and the cart shed set within a mature garden. The cart shed, front boundary stone wall and two TPO protected mature Corsican pines situated either side of the cart shed form the site frontage with High Street and are situated within Ticknall Conservation Area. The floor level of the cart shed is level with High Street with the surrounding stone boundary walls and ground levels at a higher level.

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

**Proposal**



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The application has been submitted alongside a further application for the erection of two dwellings on the remainder of the site as reported separately in this agenda. The application proposes the conversion and rear extension of the cart shed to form a three-bedroom dwelling with first floor accommodation within the roofspace. Permission to convert the cart shed as a link extension to a previous planning approval for two dwellings on the overall site was granted in May 2010. Whilst repairs and the partial conversion of the cart shed have been carried out under this consent, part of the application is in retrospect, the height of the cart shed having been raised by some three brick courses. Ground levels to the rear of the cart shed would be reduced by approximately 2m to accommodate the proposed extension and a new vehicular access and parking area would be created from Narrow Lane. The existing frontage vegetation would remain with a private garden and terrace area created behind. The application has been amended to alter the access and parking area so that it lies outside of the root protection area of the adjacent TPO tree.

### **Applicants' supporting information**

A Design, Access and Heritage Statement has been submitted with the application which includes the following details:

- The configuration, location of the building on the site and the level differences is such that an extension to the western side of the dwelling offers the most appropriate location for the provision of additional living accommodation.
- The scale of the part two-storey extension is modest and subordinate to the existing two-storey structure.
- There is some need and opportunity for carrying out limited landscaping to the High Street elevation and in particular to ensure that the terraced garden area, the existing trees and the boundary walls are retained and extended.
- The existing building is a simple and small two-storey hovel. It has already been refurbished in accordance with the earlier permission and retains the simple form and limited openings, which characterize it.
- The extension has been designed to complement the existing building but in a subordinate form and be located to the rear of the building where the rising ground levels will reduce further its visual impact.

### **Planning History**

9/2012/0006 - The variation of Condition 2 of planning permission 9/2010/0839 to allow for the insertion of rooflights. Permitted 1.03.12.

9/2010/0839 - The variation of Condition 19 to allow commencement prior to the approval of a section 247 stopping-up order and Condition 31 to agree window details of planning permission 9//2010/0131/FM. Permitted 2.11.10.

9/2010/0131 - The demolition of existing bungalow and the erection of two detached dwellings including refurbishment of existing stable building and associated access and parking. Permitted 11.05.10.

### **Responses to Consultations**

The Conservation Officer has no objection.

The Highway Authority has no objection subject to conditions relating to site storage, access gradient and provision of vehicular access and parking/manoeuvring as submitted.

The Contaminated Land Officer has no objection subject to a condition for the monitoring and control, as necessary, of ground gas.

The Development Control Archaeologist has no objection subject to a condition for a scheme of archaeological monitoring.

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

Severn Trent Water has no objection.

Ticknall Parish Council objects to the conversion commenting that the building is far too close to the new houses being built, the area is prone to flooding and potential traffic congestion. The shed should be left for storage and nothing more.

### **Responses to Publicity**

Three letters of objection have been received raising the following concerns:

- a) Overdevelopment - there does not seem room for three houses on what is not a particularly extensive plot.
- b) There will be no garage and the drive looks very small and inadequate and parking in both Narrow Lane and High Street would cause great problems.
- c) Since the present planning permission was granted, the applicant has carried out extensive alterations to the existing stable building including lowering the floor level and more importantly raising the roof level.
- d) Excavations will be required to both extend the existing building and form the parking area. This will inevitably seriously damage the root structure of the protected trees and probably result in their death.
- e) The proposed developments are far too large for the ground area of the site and will result in loss of privacy to existing properties.

### **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan Policies: 1, 2, 3 & 27

Local Plan: Housing Policies 7 & 11, Environment Policies 9 & 12, Transport Policy 6

### **National Guidance**

NPPF paragraphs 49, 55, 56, 118, 131, 186 & 187

### **Planning Considerations**

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

- The principle of development
- Design and impact on the character of the Conservation area.

- Impact on amenity
- Highway issues
- Trees
- Drainage

## **Planning Assessment**

### The principle of development

The site is situated within the confines of Ticknall village where Housing Policy 7 allows for the conversion of existing buildings to residential use provided that the proposal is in keeping with the original building and not detrimental to the character of the settlement. The residential development of the site would accord with NPPF paragraph 49, which advises that housing applications should be considered in the context of a presumption in favour of sustainable development and at paragraph 55 seeks to promote sustainable housing development in rural areas where it would enhance or maintain the vitality of rural communities.

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

The original openings of the cart shed have been retained and used in the existing conversion and the historic character, clearly visible from High Street, would be retained. The raising of the ridge height is minimal and does not adversely impact on the overall character. The proposed extension to the rear would follow the existing ridge height of the cart shed with land levels to the rear dropped to accommodate the proposed extension and minimise the overall impact. Materials would be agreed by condition to match existing. The existing site features of the front boundary stone wall and the protected Corsican pines would be retained and will assist in assimilating the development into its surroundings. The proposal is a sympathetic re-use of an existing building and would not lead to any adverse impact on the character and appearance of the conservation area in accordance with Housing Policy 7 and Environment Policy 12 and NPPF paragraph 131.

### Impact on Amenity

The proposed conversion would be situated in excess of the Council's minimum distance requirements from the neighbouring properties adjoining the site and there is not considered to be any adverse impact in this regard. Sufficient private amenity space would be provided and additional landscaping could be required by condition. As such the proposal is considered to be in accordance with Housing Policy 11 and NPPF paragraph 17, which seeks to secure a good standard of amenity for existing and proposed occupants.

### Highway Issues

Access to the proposed dwelling would be via a new access from Narrow Lane with on-site parking and manoeuvring space provided. The Highway Authority has no objection to the amended scheme and the proposal is considered to be in accordance with Transport Policy 6 of the Local Plan.

## Trees

The two Corsican pines situated on the High Street frontage are protected by Tree Preservation Order Number 77. The scheme has been amended to ensure that the proposed access and associated excavation lies outside of the root protection area of the nearest Corsican pine. The Council's Tree Officer has no objection and it is not considered that the proposed development would cause any undue harm to the trees in accordance with Environment Policy 9 and NPPF paragraph 118, which seeks to protect against the loss of aged or veteran trees.

## Drainage

The Council's Drainage Officer has no objection to the proposed development subject to the submission of a scheme for a Sustainable Urban Drainage System, which can be required by condition.

## Conclusion

The scheme is a sympathetic conversion and extension of an existing building and is not considered to adversely impact on the character of the surrounding conservation area and characteristics of the existing site. The proposal is in accordance with the above policies and guidance and is considered acceptable.

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

## **Recommendation**

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

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

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

2. Notwithstanding the originally submitted details, this permission shall relate to the amended plans received 29 January 2013.

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

3. No part of the development shall be carried out until precise details, 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.

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

4. The precise type and size of the proposed rooflight shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight shall be fitted such that the outer face is flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

5. Details of the stone coping to the new or altered stone boundary walls, including a sample, shall be agreed in writing by the Local Planning Authority before incorporation in the development.

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

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

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

7. Details of the material, finish and colour of the rainwater goods shall be agreed with the Local Planning Authority prior to incorporation into the development. The works shall be carried out in accordance with the approved details.

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

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

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

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

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

10. The proposed metal flue shall be powder coated in a matt black finish unless otherwise agreed in writing with the local planning authority.

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

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

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

12. There shall be no tipping or deposition of materials within the area fenced under condition 11 above without the prior written authorisation of the local planning authority.

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

13. Notwithstanding the submitted details, prior to commencement on site construction details for the proposed parking area and hardsurfaced area outside

the proposed living room patio doors shall be submitted for approval in writing by the Local Planning Authority. The scheme shall include detailed measures to ensure that the root protection area of the adjacent Corsican pine remains unaffected using no dig construction methods where appropriate. The construction shall be carried out in accordance with the approved details.

Reason: In the interests of the health and preservation of the adjacent protected tree.

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

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

15. 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.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

17. Before any other operations are commenced (excluding demolition/site clearance), space shall be provided within the site curtilage for the storage of plant and materials/site accommodation/loading, and unloading of goods vehicles/parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted to and approved in writing by the Local Planning Authority and maintained throughout the contract period in accordance with the approved designs free of any impediment to its designated use.

Reason: In the interests of highway safety.

18. Before any other operations are commenced (excluding Condition 17 above) a new vehicular access shall be created to Narrow Lane in accordance the application drawings, laid out, constructed and provided with 2.4m x maximum achievable visibility sightlines being maintained throughout the life of the

development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

19. The proposed access drive to Narrow Lane shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

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

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

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

22. A. No development shall take place, until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording.
2. The programme for post investigation assessment.
3. Provision to be made for analysis of the site investigation and recording.
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
5. Provision to be made for archive deposition of the analysis and records of the site investigation.
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.

C. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation

approved under 'A' above and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

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

#### Informatives:

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

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

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

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

For assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/environment/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp). The administration of this application may be expedited if completion or verification evidence is also submitted to the Environmental Protection Officer (Contaminated Land) in the Environmental Health Enforcement department: [thomas.gunton@south-derbys.gov.uk](mailto:thomas.gunton@south-derbys.gov.uk).

Further guidance can be obtained from the following:

- . CIRIA C665: Assessing the risks posed by hazardous ground gases into buildings
- . CLR 11: Model Procedures for the Management of Contaminated Land.
- . CLR guidance notes on Soil Guideline Values, DEFRA and EA.
- . Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.

- Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.

**Item**            1.4

**Reg. No.**        9/2012/0919/FM

**Applicant:**  
Mr Adam Page  
XI Designs  
14 Main Street  
Worthington  
LE65 1RP

**Agent:**  
Mr Eric Lee  
Eric Lee Architectural Services  
The Stables  
Robinsons Hill  
Melbourne  
Derby  
DE73 8DJ

**Proposal:**        **THE DEMOLITION OF THE EXISTING BUNGALOW AND  
THE ERECTION OF TWO DETACHED DWELLINGS AND  
GARAGES AT 10 HIGH STREET TICKNALL DERBY**

**Ward:**            **REPTON**

**Valid Date:**      **06/11/2012**

**Reason for committee determination**

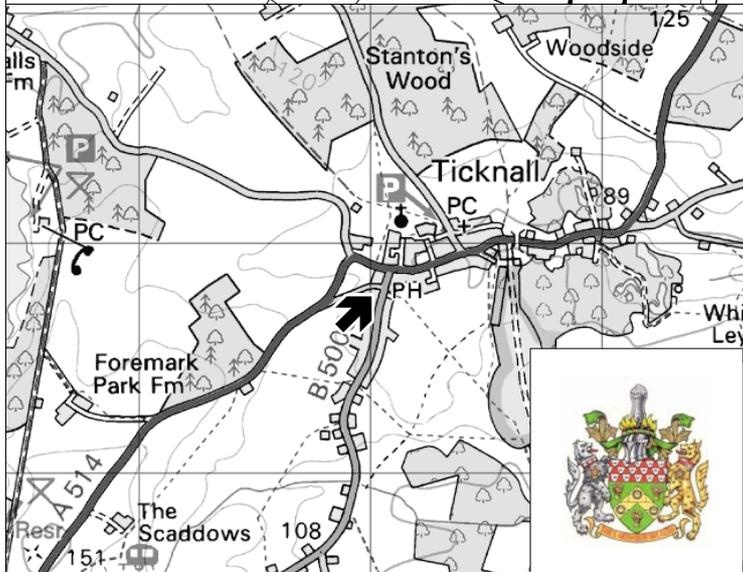
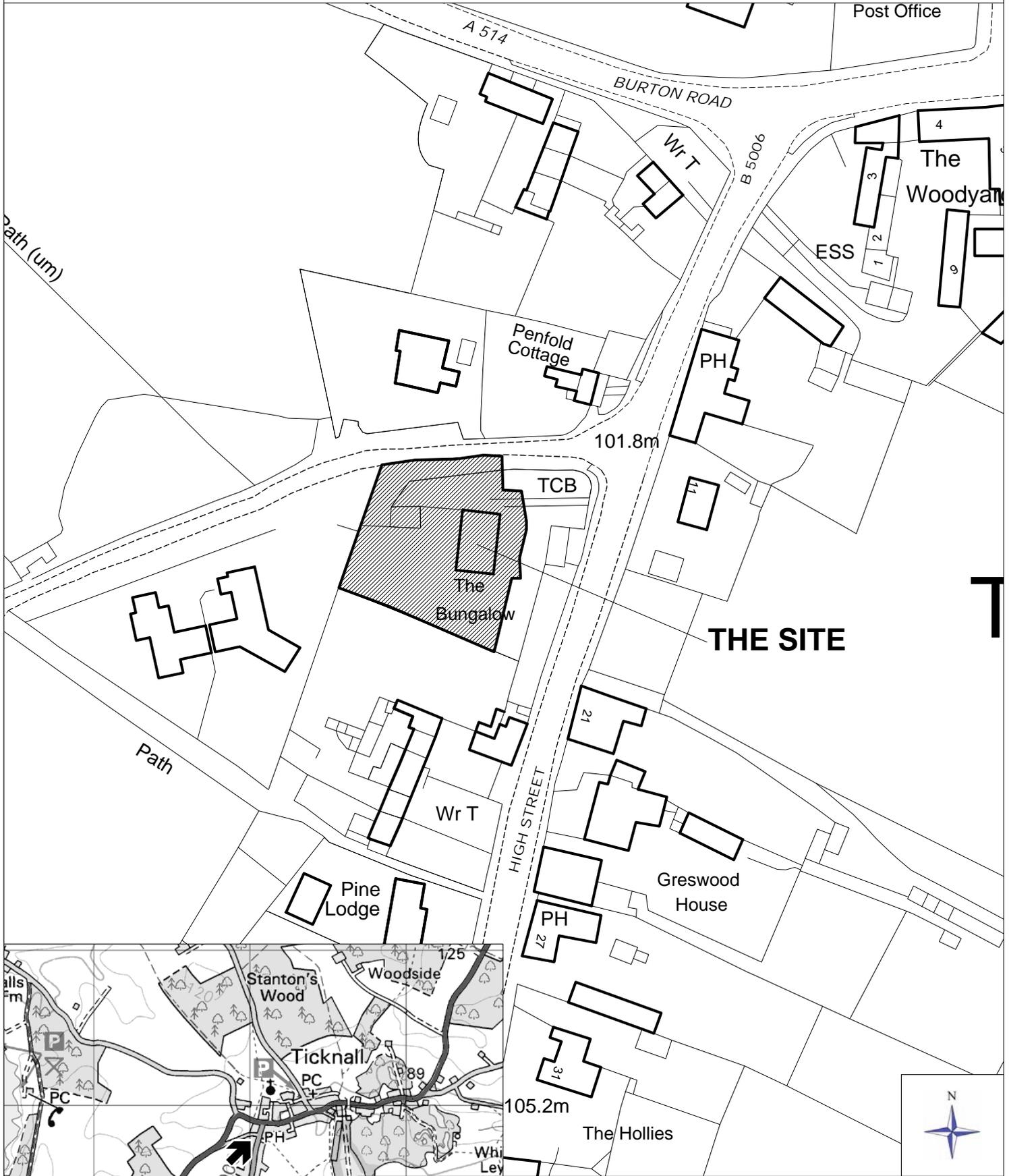
The application has been brought to Committee at the request of Councillor Stanton as local concern has been expressed about a particular issue.

**Site Description**

The application site is an elevated corner plot bordered by High Street and Narrow Lane situated within Ticknall village confines and occupied by an existing bungalow, detached garage and cart shed set within a mature garden. The cart shed, a stone wall and two TPO protected mature Corsican pines form the site frontage with High Street and are situated within Ticknall Conservation Area, the remainder of the site lying outside. A beech hedge forms the western and southern boundaries of the site with a low stone wall inset from a highway verge forming the northern boundary with Narrow Lane. The site is in an elevated position from High Street and continues to rise up with the rising gradients of both Narrow Lane and High Street. Access to the site is from Narrow Lane with a stepped pedestrian access from High Street.

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

**Proposal**



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South Derbyshire District Council. LA 100019461. 2010

The application is an amendment to a previously approved scheme for the demolition of the bungalow and erection of two dwellings including the linking of Plot 1 to the cart shed to provide further living accommodation permitted in May 2010 (9/2010/0131). The current application alters the alignment and design of the previously approved dwellings proposing a revised orientation fronting onto Narrow Lane. Both dwellings would have four-bedrooms, the fourth being located within the roofspace, with a maximum ridge height of 9m, lower than the previously approved dwellings. Access would be from Narrow Lane via a single access with a detached and linked double garage providing parking for each dwelling respectively.

The application proposes a reduction in land levels throughout the site. Plot 1 would be approximately 1.73m lower than the floor level of the existing bungalow with Plot 2, 1.1m lower than existing ground levels. Levels in the middle of the site where the proposed parking and manoeuvring areas are proposed would drop by approximately 1.73 m from existing. Levels would rise to meet existing levels along the southern boundary in the location of the water main. The overall appearance would be of the dwellings stepping down within the site towards the cart shed and High Street.

The application has been submitted alongside a further application to convert and extend the cart shed to provide a third and separate dwelling with a separate access and parking area proposed from Narrow Lane. This application is reported separately on the agenda (9/2012/0909). The scheme has been amended moving the garage of Plot 1 further west to allow for alterations to the cart shed application moving the development away from the root protection area of the adjacent protected tree.

#### Applicants' supporting information

A Design, Access and Heritage Statement has been submitted in support of the application and includes the following details:

- The scale of the dwellings is masked by the use of articulated forms, relatively narrow gable widths, and by the use of low eaves with the provision of additional third floor accommodation located largely within the roof space.
- There is some need and opportunity to carry out limited landscaping to the Narrow Lane frontage.
- The dwellings have been designed to reflect as far as possible the local village vernacular.
- Windows are relatively small two and three light timber casements embellished with stone cills and, where appropriate, arched brick headers.
- The land rises quite significantly to the west (and from front to back across the depth of the site) and advantage in terms of improving visual interest, has been taken by setting the dwellings at finished floor levels relative to each other and to the adjacent hovel fronting High Street.
- External building materials will be in matching facing bricks and blue/grey plain clay tiles.

#### **Planning History**

9/2012/0006 - The variation of Condition 2 of planning permission 9/2010/0839 to allow for the insertion of rooflights. Permitted 1.03.12.

9/2010/0839 - The variation of Condition 19 to allow commencement prior to the approval of a section 247 stopping-up order and Condition 31 to agree window details of planning permission 9//2010/0131/FM. Permitted 2.11.10.

9/2010/0131 - The demolition of existing bungalow and the erection of two detached dwellings including refurbishment of existing stable building and associated access and parking. Permitted 11.05.10.

### **Responses to Consultations**

The Conservation Officer has no objection.

The Highway Authority has no objection subject to conditions relating to site storage, access gradient and provision of vehicular access and parking/manoeuvring as submitted.

The Contaminated Land Officer has no objection subject to a condition for the monitoring and control, as necessary, of ground gas.

The Development Control Archaeologist has no objection subject to a condition for a scheme of archaeological monitoring.

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

Severn Trent Water has no objection.

### **Responses to Publicity**

Three letters of objection have been received raising the following concerns:

- a) Overlooking and overshadowing, particularly by Plot 2 and loss of privacy.
- b) Insufficient parking space on the shared drive and potential danger of parking on Narrow Lane. High Street is already too full of vehicles of people with no off-road parking.
- c) Is the requirement that no building should be erected on, or within 20 feet of the Severn Trent Water pipe being observed?
- d) It would be a pity to encroach further on one of only two unspoilt little country lanes left in the village.
- e) Gross overdevelopment of the site.
- f) At no time has the exact position of the main water pipe been established by the applicant.
- g) The proposed developments are far too large for the ground area of the site and will result in loss of privacy to existing properties.
- h) Insufficient parking and vehicle access will be difficult.

### **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan Policies: 1, 2, 3 & 27

Local Plan: Housing Policies 5 & 11 (and Supplementary Planning Guidance – 'Housing Layout and Design' SPG)), Environment Policies 9 & 12, Transport Policy 6

## **National Guidance**

National Planning Policy Framework (NPPF) paragraphs 17, 49, 55, 131, 186 & 187

## **Planning Considerations**

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

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

## **Planning Assessment**

### Principle of development

The site is situated within the confines of Ticknall village where new housing development is acceptable in principle in accordance with Housing Policy 5 of the Local Plan subject to being in scale and character with the settlement. The residential development of the site would accord with NPPF paragraph 49 which advises that housing applications should be considered in the context of a presumption in favour of sustainable development and at paragraph 55 seeks to promote sustainable housing development in rural areas where it would enhance or maintain the vitality of rural communities.

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

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

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

The proposed dwellings are traditional in appearance and sympathetic to the character of the surrounding development. The change in land levels and gradual stepping down of the dwellings towards the cart shed would assist in assimilating the development into the surrounding landscape and the use of appropriate brick and tile would further harmonise the development with the predominant character of Ticknall and could be agreed by condition. Existing characteristic features of the site would be retained such as the historic cart shed, protected trees and stone boundary walls to both High Street and Narrow Lane.

Whilst it is acknowledged that the visual impact of the proposal would be more prominent than that of the existing bungalow on site, the dwellings have been sympathetically designed to respond to the variation in levels and the varied traditional

character of the surrounding properties within the conservation area such that it is not considered that the proposal would have any adverse impact on the appearance or character of the conservation area. As such the proposal is considered to be in accordance with the requirements of Housing Policy 5 and Environment Policy 12 and NPPF paragraph 131.

#### Impact on Amenity

The proposed dwellings would be situated in excess of the SPG minimum distance requirements from the neighbouring properties adjoining the site and so there is not considered to be any adverse impact in this regard. Sufficient private amenity space would be provided and additional landscaping could be required by condition. As such the proposal is considered to be in accordance with Housing Policy 11 and NPPF paragraph 17 which seeks to secure a good standard of amenity for existing and proposed occupants.

#### Highway Issues

Access to the proposed dwellings would be via a single access from Narrow Lane with on-site parking and manoeuvring space provided for a minimum of two vehicles per property. The Highway Authority has no objection to the amended scheme and the proposal is considered to be in accordance with Transport Policy 6 of the Local Plan.

#### Trees

The two Corsican pines situated on the High Street frontage are protected by Tree Preservation Order Number 77. The trees would be retained with any proposed excavation to alter the site levels for the two dwellings being situated outside of the root protection zone. The Council's Tree Officer has no objection and it is considered that the proposed development would not cause any undue harm to the trees in accordance with Environment Policy 9 of the Local Plan.

#### Drainage/water main

The proposed development would be located outside of the 5m easement line of a Severn Trent water pipe which crosses the southern boundary of the site, the location of which has been confirmed by email, and Severn Trent Water has no objection.

The High Street is an area prone to historic flooding from surface water runoff. The Council's Drainage Officer has no objection to the proposed development subject to the submission of a scheme for a Sustainable Urban Drainage System which can be required by condition.

#### Conclusion

The amended scheme is sympathetic to the character of the surrounding conservation area and characteristics of the existing site. The proposal is in accordance with the above policies and guidance and is considered acceptable.

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

## Recommendation

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended plans received 29 January 2013.  
  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until samples of the external materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The agreed materials shall then be used in the development hereby approved.  
  
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Large scale drawings, including horizontal and vertical sections, to a minimum scale of 1:10 of porches, eaves, verges, chimney stacks, boundary walls and copings, external joinery, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The details shall be constructed in accordance with the approved drawings.  
  
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
5. Notwithstanding the submitted details the precise type and size of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.  
  
Reason: In the interests of the appearance of the building(s) and the character of the area.
6. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.  
  
Reason: In the interests of the appearance of the area.
7. No part of the development shall be carried out until precise details including paving patterns, specifications and samples of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the

Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

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

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

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

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

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

10. Details of the material, finish and colour of the rainwater goods shall be agreed with the Local Planning Authority prior to incorporation into the development. The works shall be carried out in accordance with the approved details.

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

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

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

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

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

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwellings and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

14. Before any other operations are commenced (excluding demolition/site clearance), space shall be provided within the site curtilage for the storage of

plant and materials/site accommodation/loading, and unloading of goods vehicles/parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted to and approved in writing by the Local Planning Authority and maintained throughout the contract period in accordance with the approved designs free of any impediment to its designated use.

Reason: In the interests of highway safety.

15. Before any other operations are commenced (excluding Condition 14 above) a new vehicular access shall be created to Narrow Lane in accordance the application drawings, laid out, constructed and provided with 2.4m x maximum achievable visibility sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

16. The proposed access drive to Narrow Lane shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

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

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

Reason: In the interests of pollution control.

19. A) No development shall take place until a Written Scheme of Investigation for archaeological monitoring has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording;
  2. The programme and provision to be made for post-excavation analysis and reporting;
  3. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  4. Provision to be made for archive deposition of the analysis and records of the site investigation; and

5. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

B) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under Part A.

C) The development shall not be occupied until the archaeological site investigation and post investigation analysis and reporting has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part A and the provision to be made for publication and dissemination of results and archive deposition has been secured.

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

20. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of the two Corsican pines protected under Tree Preservation Order No. 77 shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the trees from undue disturbance

21. There shall be no tipping or deposition of materials within the area fenced under Condition 20 above without the prior written authorisation of the Local Planning Authority.

Reason: To protect the trees from undue disturbance

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

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

23. 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.

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

Reason: In the interests of flood protection.

## Informatives:

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

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

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

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

For assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/environment/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp). The administration of this application may be expedited if completion or verification evidence is also submitted to the Environmental Protection Officer (Contaminated Land) in the Environmental Health Enforcement department: [thomas.gunton@south-derbys.gov.uk](mailto:thomas.gunton@south-derbys.gov.uk).

Further guidance can be obtained from the following:

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

Landscaping details submitted in respect of Condition 22 should include details of a landscaping scheme along the Narrow Lane frontage whilst adhering to the highway requirements of Condition 15 being no more than 0.6m in height.

**Item**            1.5

**Reg. No.**        9/2012/1048/B

**Applicant:**

Mrs Loren Pope  
The Bulls Head  
Chilled Pubs Ltd T/A The Bulls Head  
84 High Street  
Repton  
Derby  
DE65 6GF

**Agent:**

Mrs Loren Pope  
The Bulls Head  
Chilled Pubs Ltd T/A The Bulls Head  
84 High Street  
Repton  
Derby  
DE65 6GF

**Proposal:**

**THE REMOVAL OF CONDITION 3 OF PLANNING  
PERMISSION 9/2012/0528/NO AT THE BULLS HEAD 84  
HIGH STREET REPTON DERBY**

**Ward:**

**REPTON**

**Valid Date:**

**22/01/2013**

**Reason for committee determination**

The application is brought to Committee at the request of Councillor Stanton because of the level of public concern that has been raised.

**Site Description**

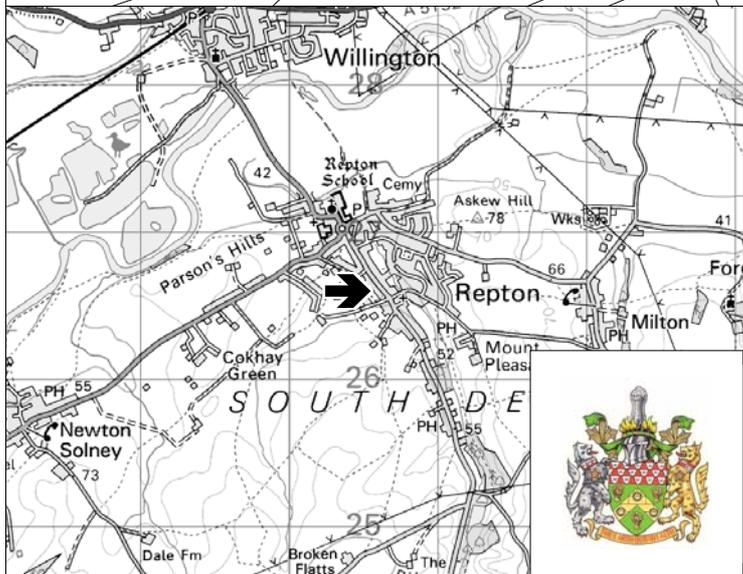
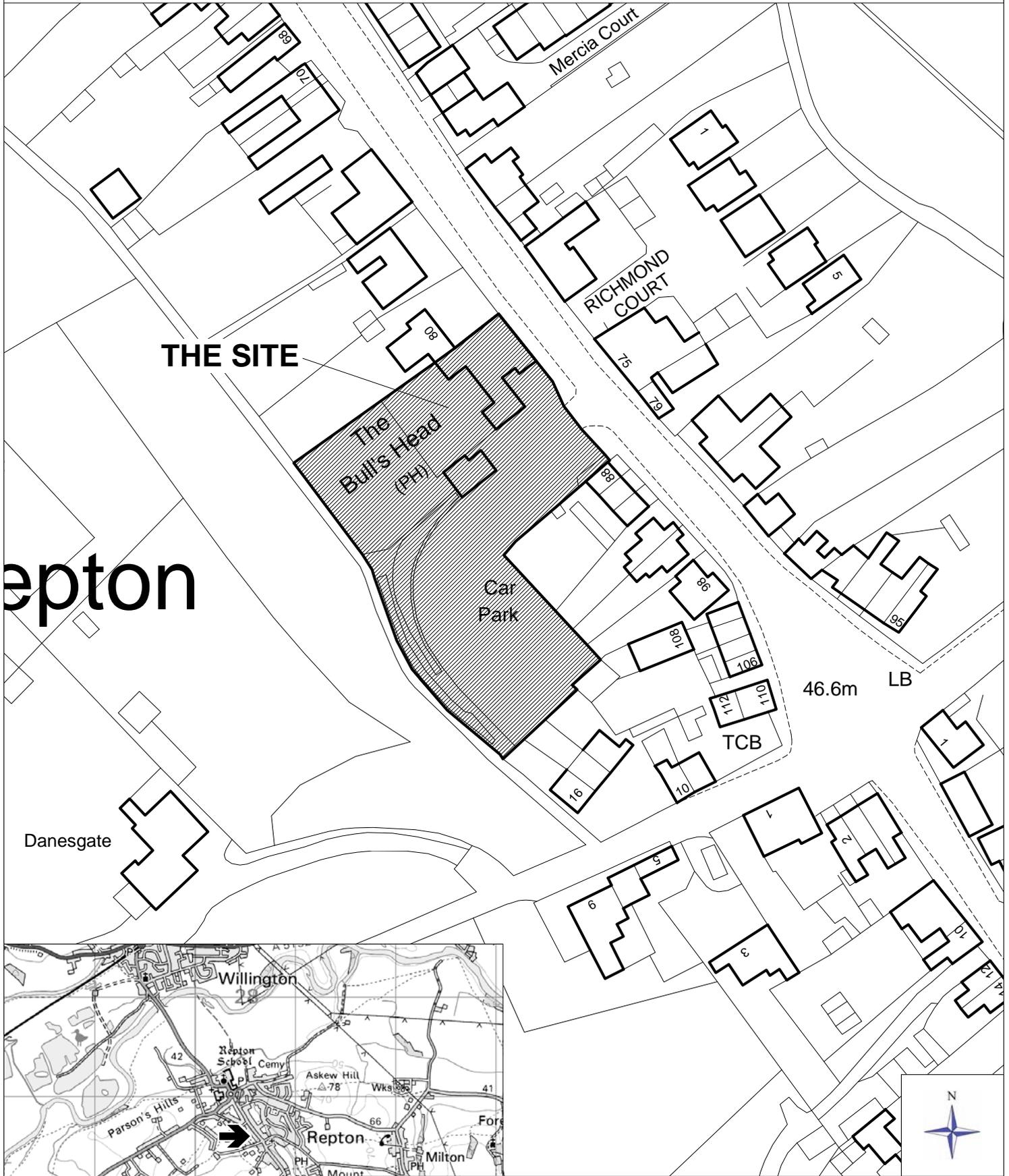
The Bulls Head Public House is situated on the western side of Main Street, Repton, within the Repton Conservation Area. The public house is served by a large car park to the immediate south of the building, together with garden and patio areas to the rear. Part of the garden area is occupied by a marquee measuring approximately 18m x 11.4m x 4.9m to the ridge that was approved last year. There are residential properties located either side of the public house, with a mix of residential and commercial properties on the opposite side of High Street.

**Proposal**

The application is for the removal of condition 3 attached to planning permission 9/2012/0528 for the erection of an all year round marquee. Condition 2 of that permission restricts the opening hours of the marquee to: 11am to 11pm Monday to Thursday; 11am to midnight Friday and Saturday; and 11am to 10pm Sundays.

Condition 3 states:

*'The hours of use specified in Condition 2 above shall be applicable until 13<sup>th</sup> February 2013 after which time the marquee shall not be open to customers outside the following times: 11am to 11pm Monday to Saturday and 11am to 10pm Sunday unless otherwise*



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*authorised under a Temporary Event Notice signed by the Licensing Authority and issued under the Licensing Act 2003'.*

The reason for imposing the condition states: *'To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties'.*

### **Applicants' supporting information**

None submitted.

### **Planning History**

9/2007/1413 – Proposed levelling of garden and erection of umbrellas – Approved 28/01/08

9/2011/1001 – Erection of an all year round marquee over existing beer garden terrace – Approved 9/02/12

### **Responses to Consultations**

The Environmental Health Manager has no objection to the proposal subject to the previously approved noise attenuation measures being adhered to.

Repton Parish Council objects to the application on the grounds that an extension to the licence governing the marquee would increase the level of noise pollution to the surrounding area – in particular to the surrounding properties and would affect residents enjoying the peace of their own homes.

Repton Village Society has commented on behalf of residents who live near the Bulls Head stating that they suffer noise and disturbance from its customers when they leave the premises late at night. As the car park is not large enough to accommodate the number of customers they are now able to serve, cars are left on the High Street and other streets/lanes running from it. The banging of car doors and noisy behaviour at midnight and beyond is very disruptive for local residents.

### **Responses to Publicity**

Fifteen emails and one letter have been received, all of which object to the proposal. Their comments can be summarised as follows:

- a. All year round noise and disturbance from the garden and marquee and from slamming doors, loud talking, starting and revving engines and horns from cars, taxis and minibuses.
- b. Inadequate size of the Bulls Head car park to cope with existing trade.
- c. Later opening hours will result in late arrivals and departures.
- d. Increased traffic.
- e. Minor damage to domestic properties as a result of cars parking outside houses.
- f. Increased opportunity for anti-social behaviour, including fighting and damage to residents' cars.
- g. Pre-cursor to extend the public house.
- h. Ground levels mean that the pub garden and marquee are on the same level as neighbouring bedroom windows and the noise from the garden and marquee often disturb sleep.

- i. The entire village is being ruined by the pub as it is becoming one large overspill car park.
- j. No benefit to the residents of the village merely a money-making venture for the owners.
- k. The number of tables / covers / sittings provided does not equate to the number of car parking spaces available for patrons.
- l. A residents' parking scheme would alleviate some of the issues caused by on-street parking by pub customers.
- m. Negative impact on residents' quality of life.
- n. Devaluation of properties.
- o. Dangerous parking causes obstructions; the Police should be more active.

### **Development Plan Policies**

The relevant policies are:

EMRP: Policy 27 (Regional Priorities for the Historic Environment)

Saved Local Plan: Policy EV12 (Conservation Areas)

### **National Guidance**

National Planning Policy Framework (NPPF), paragraphs 28, 70, 123 and 131

### **Planning Considerations**

The main issue central to the determination of this application is the noise and disturbance to neighbouring residents that could be caused by a permanent extension of opening hours.

### **Planning Assessment**

Condition 3 was imposed on the original planning permission for the marquee (9/2012/0528) at the request of the Environmental Health Officer because the proposed extension of opening hours could, potentially, impact on the amenities of the neighbouring residents. It was considered that a temporary period of 12 months (expiring on 13<sup>th</sup> February 2013) would be sufficient to indicate whether the longer hours would have such an impact as to warrant the shorter opening hours for the marquee to be reinstated.

It should be noted that the main public house currently enjoys the longer opening hours, (i.e. 11am to 12pm Fridays and Saturdays) and this would not change should the current application for the marquee be refused. Whilst this could result in the level of noise and disturbance being slightly less, there is no guarantee of this as it is likely that customers would transfer into the main building or the garden to continue their evening if the marquee closes at 11pm.

Whilst objections have been received in relation to this application, the Council has not received any complaints whatsoever from neighbouring residents during the 12-month period. It would be difficult, therefore, to substantiate a refusal on the basis of noise and disturbance, particularly as the Environmental Health Manager has not raised any objections to the application to remove the condition. The parking of patrons' vehicles on the highway is not within this Council's control and the County Highways Authority has not seen fit to impose a Traffic Regulation Order on High Street at this point or any

of the streets/lanes leading off it in the vicinity of the public house. The issue of anti-social behaviour is a matter for the police, as is the alleged damage to residents' cars.

With regard to other issues raised by residents, devaluation of property is not a material planning consideration and the Local Planning Authority has no control over market forces. Any future proposal to extend the public house would need planning permission and the scheme would be assessed on its merits at that time.

In terms of policy, paragraph 28 of the NPPF supports the growth and expansion of all types of business and enterprise in rural areas and the retention and development of local services, including public houses. Paragraph 70 seeks to ensure that planning allows for the development and modernisation of established shops, facilities and services in a sustainable way, retaining them for the benefit of the community. The marquee was originally argued on the basis that it is required in conjunction with an existing thriving pub business within the village. Whilst concerns raised at that time with regard to insufficient parking within the existing car park were acknowledged, it was not considered that the marquee would intensify the use of the premises to such a degree that would sustain an objection on highway safety grounds.

Paragraph 123 of the NPPF seeks to ensure that any significant adverse impacts on health and quality of life in relation to noise arising from new development are avoided. The condition on the previous permission relating to the control of noise remains relevant to this proposal and will be reinstated to ensure that the marquee remains compliant with the above guidance.

Paragraph 131 of the NPPF advises that in determining applications, account should be taken of the positive contribution that conservation of heritage assets can make to sustainable communities, including their economic viability and the desirability of new development making a positive contribution to local character and distinctiveness.

The marquee assists in the sustainability of the existing business within the Repton Conservation Area and, in the absence of any formal complaints to the Council from the neighbouring residents, there is no reason why condition 3 should not be removed to allow a midnight closing time on Fridays and Saturdays to bring it in line with the main public house building. Should a formal complaint be made to the Council at any time in the future, an investigation would be made under Environmental Health legislation. It is concluded that the proposal accords with local and national policy requirements and guidance and is therefore considered to be acceptable.

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

## **Recommendation**

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

1. This permission shall be for a limited period only, expiring on 28th February 2017, on or before which date the marquee shall be removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: 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) and to ensure that the fabric has not deteriorated to the detriment of the visual amenity and character of the Conservation Area.

2. Notwithstanding the submitted details the marquee shall not be open to customers outside the following times: 11am to 11pm Monday to Thursday; 11am to midnight Friday and Saturday; and 11am to 10pm Sunday, unless otherwise authorised under a Temporary Event Notice signed by the Licensing Authority and issued under the Licensing Act 2003.

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

3. Notwithstanding the submitted details, the use of the marquee shall be carried out in accordance with the scheme for the control of noise approved under planning permission 9/2011/1001.

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

4. Notwithstanding the submitted details and unless otherwise agreed in writing by the Local Planning Authority, the colour of the marquee shall be an 'off-white' or 'ivory' colour as agreed in writing by the Local Planning Authority in the letter dated 10th September 2012.

Reason: In the interests of the character and appearance of the Repton Conservation Area.

**Item**            1.6

**Reg. No.**        9/2012/1075/U

**Applicant:**  
**Mr John Clemerson**  
**171 London Road**  
**Shardlow**  
**Derbyshire**  
**DE72 2HJ**

**Agent:**  
**Mr John Clemerson**  
**171 London Road**  
**Shardlow**  
**Derbyshire**  
**DE72 2HJ**

**Proposal:**        **THE SITING OF TWO STATIC CARAVANS AT 171**  
**LONDON ROAD SHARDLOW DERBY**

**Ward:**            **ASTON**

**Valid Date:**     **09/01/2013**

**Reason for committee determination**

The application is reported to Committee at the request of Councillor Peter Watson because local concern has been raised about a particular issue.

**Site Description**

The site is a bungalow in a large plot of land. Caravans at Shardlow Marina are sited to the north and east of the site and there is a caravan storage area at the former Cavendish Bridge filling station to the south-east. Cavendish Close (a residential cul-de-sac) is located to the west of the site.

The site lies in the green belt and is also in an area at risk of flood as identified on the Environment Agency's maps.

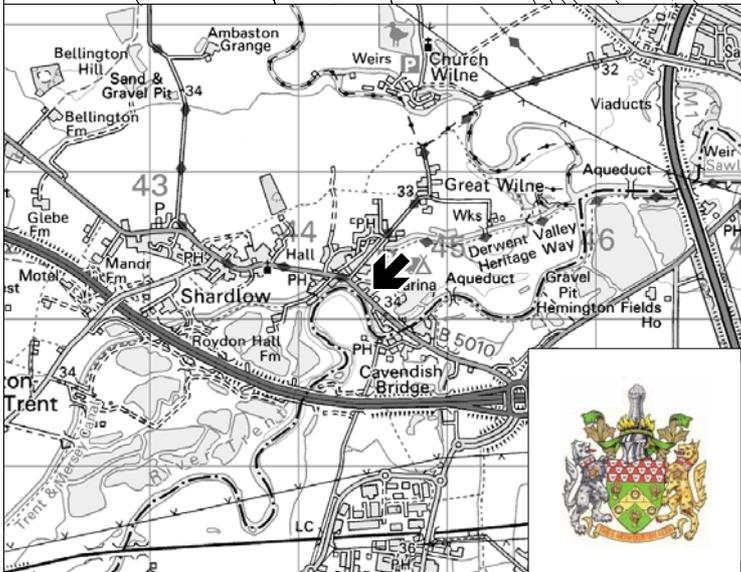
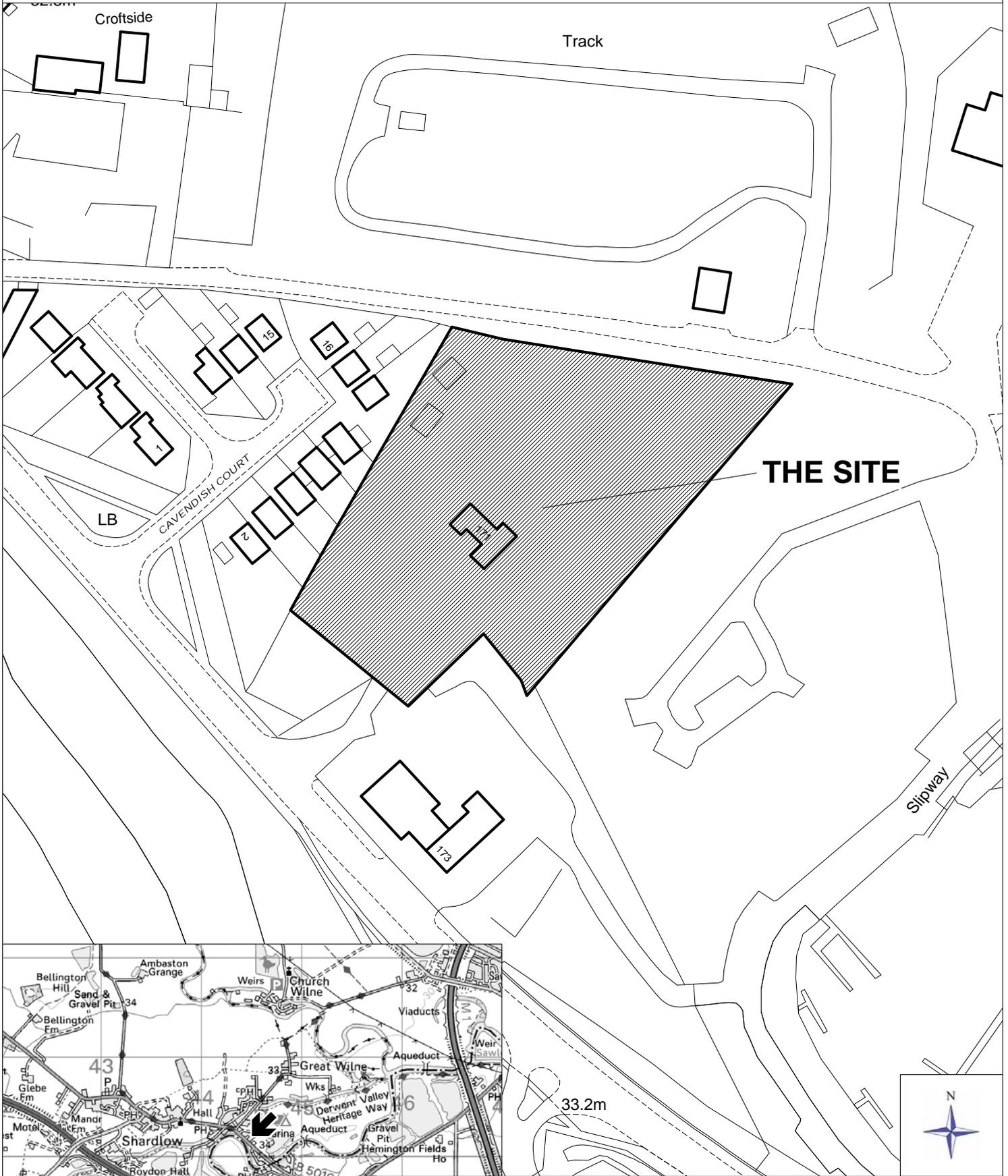
**Proposal**

The applicant seeks to site two caravans in the south-east corner of the site, next to the caravan storage area adjacent. The caravans are proposed for ancillary family accommodation.

**Applicants' supporting information**

- The applicant's wife has explained that her mother requires constant care and this is causing family difficulties with the applicant's grown up children, including lack of privacy.

9/2012/1075 - 171 London Road, Shardlow, Derby DE72 2HJ



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

- The children presently provide relief care to enable the applicant and his wife to continue with their jobs.
- The ancillary accommodation would relieve current family tensions and enable the care regime to be maintained.

### **Planning History**

None relevant.

### **Responses to Consultations**

The Parish Council objects as follows:

- a) The site causes disturbance, including noise from dogs, cockerels and horses, dilapidated caravans and machinery and fires producing acrid smoke.
- b) Bottled LPG is lying around which could be hazardous.
- c) The septic tank would be inadequate.
- d) The forms are inaccurate, as they do not mention overgrown hedges and trees.
- e) The type of accommodation is not clear.
- f) A site visit should be undertaken.

The Environmental Health Manager seeks details of the means of drainage before the use commences. The Contaminated Land Officer recommends a precautionary condition to deal with any contaminants found during development.

### **Responses to Publicity**

8 letters have been received, objecting as follows:

- a) The site causes disturbance, including noise from dogs, cockerels and horses, dilapidated caravans and machinery and fires producing acrid smoke.
- b) There would be increased disturbance.
- c) Bottled LPG is lying around which could be hazardous.
- d) The septic tank would be inadequate.
- e) The forms are inaccurate, as they do not mention overgrown hedges and trees.
- f) There is no facility for domestic waste.
- g) There is a caravan site adjacent and the accommodation is not needed.
- h) A commercial use may be occurring.
- i) The property may become a caravan site.
- j) The site access is prone to flooding.

### **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Saved Green Belt Policy 3 and Housing Policy 12.

### **National Guidance**

National Planning Policy Framework Paras 11-14 (presumption in favour of sustainable development), Paras 186 & 187 (Positive decision-taking) Paras 196 & 197 (determining applications) Chapter 9 (green belts).

## **Planning Considerations**

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

- The principle and impact on the green belt.
- Residential amenity.
- Flood risk.

## **Planning Assessment**

### The principle and impact on the green belt

The application is to provide ancillary accommodation to cater for the applicant's particular family needs. In certain circumstances the siting of caravans for ancillary use may not require planning permission. Subject to the imposition of a condition, to restrict occupation as such, no material change of use would be involved. Although the site lies in the green belt, Saved Green Belt Policy 3 supports extensions and alterations of scale and character in keeping with the existing dwelling. Although the policy is not directly applicable to the proposal, because it is not operational development, it does point to the acceptability of the proposal in principle. Housing Policy 12 (although aimed at self-contained dwellings) seeks to ensure that non-permanent dwellings are allowed to support a rural based activity, are satisfactorily located in relation to other development, are environmentally acceptable, have adequate landscaping and access and are usually for a temporary period.

Given the site's context, surrounded by development, and its general lack of visibility from the public realm, the impact on the openness of the green belt and its immediate location would be negligible.

### Residential amenity

Given that the caravans are needed to deal with the applicant family's circumstances, there would be no demonstrable increased impacts on nearby residents' living conditions. Objections raised in respect of current alleged activity are not material to this application.

### Flood risk

In accordance with the Environment Agency's Standing Advice a condition requiring the applicant to make provision for a flood event is necessary, to ensure that the occupants are adequately protected.

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

## **Recommendation**

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

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

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

2. The living accommodation hereby permitted shall be occupied solely by members of the household of 171 London Road Shardlow or by domestic staff, and shall not be severed from the main house as a separate and unconnected dwelling.

Reason: Although the siting of a caravan to provide additional accommodation to be used in conjunction with the existing dwelling is acceptable, the Council would not normally be inclined to allow the formation of a separate residential unit in this locality. Since the extension includes all the domestic facilities necessary for the establishment of a separate self-contained unit, the Council hereby seeks to make it clear that separate occupation is not authorised by this permission.

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

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

4. In the event that foul water is to be discharged from either or both caravans, this shall not take place until details of a scheme for the disposal of foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before any such discharge takes place.

Reason: In the interests of pollution control.

5. Prior to the commencement of the development hereby permitted the applicant shall confirm in writing to the Local Planning Authority, as a minimum, that:

(1) Floor levels within the caravans will be set no lower than existing levels in the house AND,

(2) Flood proofing of the proposed development has been considered by the applicant and incorporated where appropriate.

Reason: In the interests of flood protection.

**Item** 1.7

**Reg. No.** 9/2013/0029/A

**Applicant:**  
Marston's Brewery  
Shobnall Road  
Burton Upon Trent  
Staffordshire  
DE14 2BG

**Agent:**  
Mr Peter Morgan  
Morgan Signs & Design Ltd  
Unit A4 Regal Drive  
Walsall Enterprise Park  
Walsall  
WS2 9HQ

**Proposal:** THE DISPLAY OF TWO FACILITY SIGNS AND A HAND PAINTED WALL SIGN AND LIGHTS ON THE FRONT OF THE HAWK & BUCKLE 46 MAIN STREET ETWALL DERBY

**Ward:** ETWALL

**Valid Date:** 25/01/2013

**Reason for committee determination**

Councillor Lemmon requested that the committee determine this application as local concern has been expressed about a particular issue.

This report also covers the listed building application 9/2013/0030 at the same site.

**Site Description**

The Hawk and Buckle public house occupies a prominent position on Main Street in Etwall and is a grade II listed building in the Etwall Conservation Area.

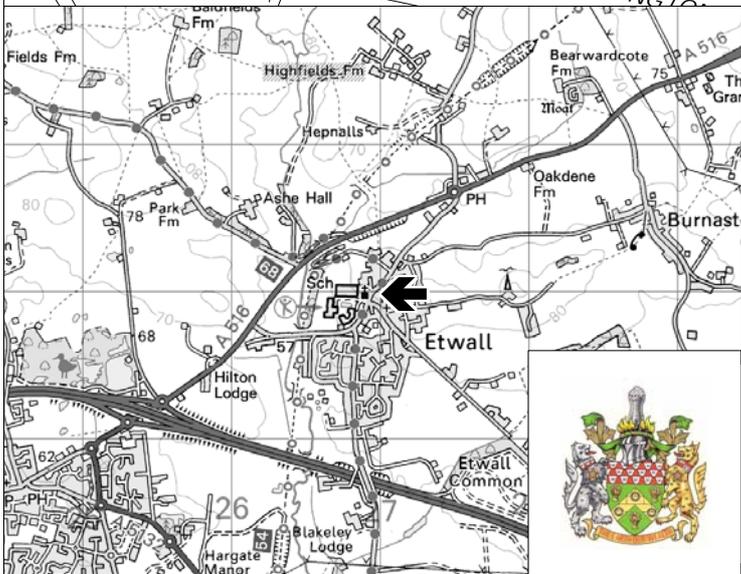
**Proposal**

The main proposal is to restore a painted patch sign to the front of the public house. In addition existing information boards are to be replaced either side of the main entrance. The lights that illuminate the individual lettering of the 'Hawk and Buckle' sign would also be replaced with a trough light.

**Applicants' supporting information**

In the supporting Heritage statement, the applicants make reference to the historic patch sign that occupied the front of the public house which is supported by an historic photograph. It is contended that the restoration of the patch sign would restore the

9/2013/0029 - Hawk & Buckle, 46 Main Street, Etwall, Derby DE65 6LP



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

historic context for the pub and thus enhance the appearance of the building. The plans indicate that the wording of the sign is yet to be finally determined.

The remaining works are contended to be non-contentious being replacement signs and lights.

In response to a request to reduce the width of the patch signs, the applicants have commented that they consider this one of their traditional properties and that the painting of the signs would be a fine example of bringing the building back to its original appearance.

### **Planning History**

9/1985/1026 – Consent was granted for the hanging sign and the two fascia signs.

[These signs are to be replaced if this application were permitted].

9/2000/0473 & 474 Advert and Listed Building consent for the individual letters on the frontage of the building. [The illumination of the letters is to be replaced as part of this application if permitted].

### **Responses to Consultations**

Etwell Parish Council has no objection.

The County Highway Authority has no objection subject to conditions.

### **Responses to Publicity**

One letter has been received expressing the following objections to the development:

- a) There is no objection to items 2 – 5 of the application.
- b) Item 1 would disfigure the historical frontage to the pub and be out of character with it and other listed buildings on Main Street. This fails to meet the criterion in adopted Advertisement Guidance that the Council will have regard to the impact of adverts on the appearance of the building and the visual amenity of the immediate area.
- c) The patch sign would be unduly prominent again contrary to the Council's own advice.
- d) The existing signs could provide the necessary information about the beers and services available in the public house. These signs are clearly in keeping with the public house. These signs are more in keeping with modern practice and limit the number of signs on the listed building.
- e) The Heritage Statement refers to premises called 'The Fountain' in its Introduction and this suggests that the document has been 'cut and pasted' rather than being the result of a visit to the site to assess its context. It does not encourage confidence in the rest of the document.
- f) Only archive photographs have been used that do not reflect the current signage on the building.

### **Development Plan Policies**

The relevant policies are:

Local Plan: Environment Policy 12 contains reference to the control of advertisements in Conservation Areas.

### **National Guidance**

The NPPF – para 67

### **Local Guidance**

SPG - Display of Advertisements

### **Planning Considerations**

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

- The policy background
- The impact of the advertisements on the building and the wider area.
- The use of materials and their appropriateness to the appearance of the listed building.

### **Planning Assessment**

Policy ADV 1 in the Control of Advertisement SPG states that consent will only be granted where signs are well located in relation to the building or site on which it is to be displayed; it is of a suitable size, colour and design, and of materials that are acceptable in the locality; it is not unduly prominent; it does not contribute to visual clutter in the street scene. At paragraph 3.5 it states that within conservation areas, and when associated with a listed building, advertisements must be designed and located so as to respect the unique character of individual areas and buildings.

Building on the advice in Environment Policy 12, Policy ADV 2 sets out the considerations that would apply to the determination of applications for advert and in particular when located within a conservation area. The critical test is whether the proposed advertisement would preserve or enhance the character or appearance of the conservation area.

The main issue relates to the impact of the painted sign on the frontage. There is clear evidence of a sign of the type proposed here being present on the fabric of the building both from photographs and from the remnants of paint on the brickwork. In terms of the conservation area/listed building implications, it is considered that the restoration of a painted sign with the letter form proposed is of potential benefit to the overall appearance of the building and the conservation area. The applicants have been requested to reduce the overall width of the patch sign to finish at one third of the distance between the first and second windows but for the reasons stated above have declined to make changes.

Overall, the restoration of the patch sign has to be considered in the light of the existing permitted signs on the building and whether its addition would comprise undue clutter and thus detract from the appearance of the building and the wider area with regard to the historic context of the building and its location in the Etwall Conservation Area. The advice in the NPPF has also to be taken into account. The number of signs on the building is not considered excessive at the present time comprising the individual letters

and the two signs adjacent to the main entrance door. The replacement of the patch sign would restore the historic appearance of the building and whilst prominent it would not unduly affect the character of the building or impact visually on the wider area in a manner that could be described as harmful to the character or appearance of the Etwall Conservation Area.

There are other smaller signs on the side of the former coach entrance to the rear yard of the pub and these have little or no impact on the appearance of the main building or the wider area.

There is no objection to the replacement signs and lighting either from objectors or the Parish Council and the County Highway Authority.

Having regard to the issues discussed above and the provisions of prevailing policy, consent is recommended.

### **Recommendation**

**GRANT** advertisement consent subject to the following conditions:

1. The advertisement shall be removed and the site restored, to the satisfaction of the Local Planning Authority, no later than 5 years from the date of this consent, subject to the right to apply for a further period.

To accord with The Town and Country Planning (Advertisement) (England) Regulations 2007.

2. Prior to the works to paint the sign on the front of the building, details of the colour and precise details of the lettering/wording of the patch signs to a minimum scale of 1:10 shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the patch signs shall be implemented in accordance with the approved details.

Reason: In the interests of the appearance of the building and the Etwall Conservation Area.

### **Informatives:**

You are advised that the appearance of the patch signs would be improved by the removal of the grills in the front elevation and their infilling with a matching brick if they are no longer in operation. In addition the removal of the timber fascia sign over the main door would further enhance the original appearance of the building. It is also suggested that the stone cills and lintels be repainted in a colour to blend with the colour of the patch signs. If you wish to discuss these suggestions, please contact Philip Heath at these offices on [philip.heath@south-derbys.gov.uk](mailto:philip.heath@south-derbys.gov.uk) or phone 01283 595936.

**Item**            1.8

**Reg. No.**        9/2013/0030/L

**Applicant:**  
Marston's Brewery  
Shobnall Road  
Burton Upon Trent  
Staffordshire  
DE14 2BG

**Agent:**  
Mr Peter Morgan  
Morgan Signs & Design Ltd  
Unit A4 Regal Drive  
Walsall Enterprise Park  
Walsall  
WS2 9HQ

**Proposal:**        **THE DISPLAY OF TWO FACILITY SIGNS AND A HAND  
PAINTED WALL SIGN AND LIGHTS ON THE FRONT OF  
THE HAWK & BUCKLE 46 MAIN STREET ETWALL  
DERBY**

**Ward:**            **ETWALL**

**Valid Date:**     **25/01/2013**

**Reason for committee determination**

Councillor Lemmon has requested that Committee determine this application as issues of local concern have been raised about a particular issue.

The issues relating to this application are covered in the report on 9/2013/0029.

**Recommendation**

**GRANT** listed building consent subject to the following conditions:

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

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

**Item** 2.1

**Reg. No.** 9/2012/0954/TP

**Applicant:**  
Mrs P Seal  
41 Hillside  
Findern  
Derby  
DE65 6AW

**Agent:**  
Mr D Mahon  
Mwa Arboriculture  
Bloxham Mill Business Centre  
Barford Road  
Bloxham  
Banbury  
Oxfordshire  
OX15 4FF

**Proposal:** THE REMOVAL OF AN OAK TREE COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER 359 AT 41 HILLSIDE FINDERN DERBY

**Ward:** WILLINGTON & FINDERN

**Valid Date:** 13/11/2012

**Reason for committee determination**

This application is brought to committee at the discretion of the Head of Community and Planning Services because under the legislation the Council may be open to a claim for compensation.

**Site Description**

The applicant's property is a detached house of traditional brick and tile construction built in the 1970s. The house has an attached garage which was added in the late 1980s and a conservatory later still. The oak tree in question is located in the rear garden and predates the house by many decades. The tree lies some 21 metres from the garage and 18 metres from the conservatory.

**Applicants' supporting information**

The applicant claims that the oak is the cause of clay shrinkage and therefore subsidence damage to the property. The application is accompanied by a technical report, a site investigation and laboratory report, an arboricultural report and level monitoring survey. Whilst the consultant firm of adjusters has recommended that a 30% crown reduction would be sufficient to bring about stability, the arboricultural report carried out on behalf of the applicant's insurers concludes that the oak tree is a contributory factor in the damage to the buildings and should therefore be removed.



## **Planning History**

Records show that the original integral garage was converted to a dining room and a replacement garage added in 1982. A further extension to the garage was authorised in 1986. Permission under the Building Regulations was granted in both cases. However, there are no records of any permissions for the erection of the conservatory.

## **Responses to Consultations**

The Parish Council has no objection to the crown of the tree being reduced but do not agree to the felling of the tree and request that the district council complete a tree inspection before any decision is made.

The Council's Tree officer states that the tree is a fine example of an English Oak. It is imposing, highly visible and worthy of its protective status. He reports that whilst the tree has several defects within its structure these are all minor and to be expected in a tree of this age. He states that the tree is within the zone of influence for shrinkable soils and thus may affect moisture content. He questions why other remedial measures have not been considered such as root pruning or a root barrier. Overall he describes the tree as very valuable and has given it a specific value of between £50,000 to £63,000 (using the CAVAT method).

## **Responses to Publicity**

Two objections have been received citing the value of the tree as a host for wildlife and that it should not be removed in view of the loss of many native trees. It is also pointed out that crown reduction is proposed and it is only the insurance company that are pushing for felling.

## **Development Plan Policies**

The relevant policies are:  
Local Plan: Environment Policy 9.

## **National Guidance**

NPPF Paragraph 17 and Chapter 11.

## **Planning Considerations**

The main issue central to the determination of this application is whether the oak tree should be felled because of the past and future damage suffered by the dwelling.

## **Planning Assessment**

National and local planning policy favours the safeguarding of trees of amenity value which can be exercised through the tree preservation legislation.

In order to come to a view on the future of the tree, a report has been commissioned from a specialist Consulting Structural Engineer which concludes that: "... *movement to the rear of the garage is seen to be minimal and that to the conservatory at 3.2mm over the period of monitoring is more significant but not great. It is also noted that the*

*prevailing weather conditions during the monitoring period were not particularly dry and as such actual shrinkage of the founding strata has likely been restricted during 2012. The primary cause of movement is seen to be root induced volume change of the founding clay strata and the oak tree ... the prime contributor. However, the oak tree predates the construction of the property and later conservatory and therefore consideration of its impact should have been taken in deriving the foundation solution at the time of construction. Looking ahead, some seasonal movement could be expected to affect the conservatory and to a lesser extent the rear of the garage. Removal of the oak would ease progression of potential damage and in time net heave may result as ground recovers, however at 20 metres distant we would not expect this to unduly affect the property."*

In such circumstances where the main dwelling itself is not claimed to be in jeopardy, there can be no justification for overriding the community benefit gained from the continued presence of the tree. Although not volunteered by the applicants, it is considered that remedial measures should be considered in preference to the felling of the tree in future to prevent any further damage.

### **Recommendation**

**REFUSE** permission for the following reason:

1. The oak tree the subject of this application is the subject of a Tree Preservation Order No 359. Having regard to the provisions of Environmental Policy 9 of the adopted South Derbyshire Local Plan and 'Tree Preservation Orders' (the Blue Book) that seeks to protect trees and woodland of high amenity value, the Local Planning Authority is not prepared to sanction the loss of the tree as is of high amenity value it is an excellent specimen of significant age and prominence in the area. In this location it has the prospect of at least 100 years of life remaining given its current condition.

Informative:

Consideration should be given to alternative measures to prevent any further damage caused to the building(s) on the site. In this regard you should contact the Council's Tree officer for further advice.

## 2. PLANNING AND OTHER APPEALS

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2012/0042	Willington	Willington/Findern	Dismissed	Delegated
9/2012/0587	Scropton	Hilton	Allowed	Delegated



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# Appeal Decision

Site visit made on 29 January 2013

**by David Richards BSocSci Dip TP MRTPI**

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

**Decision date: 6 February 2013**

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**Appeal Ref: APP/F1040/H/12/2175895**

**Betty's Farm, Castle Way, Willington, Derby, DE65 6BW**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by John Bowler Farms LLP against the decision of South Derbyshire District Council.
  - The application Ref 9/2012/0042/A, dated 16 January 2012, was refused by notice dated 13 March 2012.
  - The advertisement proposed is advertisement lettering on an 11 kw wind turbine.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect on amenity and public safety.

## Reasons

3. The advertisement lettering was in place at the time of my site visit. It occupies a prominent position facing the A38 (T) and takes the form of lettering on the column supporting the wind turbine. Because of its south-westerly orientation and positioning in relation to the nearby Castle Way overbridge abutment views of it are limited in practice to drivers travelling north on the dual-carriageway or users of the footway alongside it.
4. Nevertheless it is in the open countryside. Although it uses simple lettering on the metallic surface of an authorised structure, its prominence makes it harmful to the visual character and amenity of the countryside. While the accepted need for renewable energy can be a justification for structures in countryside locations, there is no wider benefit from an advertisement which is designed to attract attention and serves to make the structure more noticeable. I therefore conclude that the lettering is harmful to the amenity of the countryside.
5. The Council also states that illumination of the advertisement would be distracting to drivers and thus harmful to highway safety. In response the Appellant states that there is no intention to illuminate the advertisement. However, the relevant box on the application form dated 16 January 2012 has been checked, and indicates that the advertisement would be externally illuminated. If illuminated I consider that it would be distracting to north-bound drivers. This would be at the approach to a junction on a fast stretch of

road, where additional concentration is necessary, and would therefore be harmful to public safety.

6. If I had found that the advertisement was otherwise acceptable in terms of amenity, this is a matter which could be addressed satisfactorily by a condition preventing illumination, in view of the Appellant's statement that illumination is not intended. However I conclude that it is harmful to amenity for the reasons given, and therefore that the appeal should be dismissed.

*David Richards*

INSPECTOR



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## Appeal decision

Site visit made on 10 January 2013

**by Mike Croft MA DipTP MRTPI**

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

**Decision date: 16 January 2013**

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### **Appeal ref APP/F1040/D/12/2186355 4 Watery Lane, Scropton, Derby, DE65 5PL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Y Dalby against the decision of South Derbyshire District Council.
- The application (ref 9/2012/0587/FH), dated 3 July 2012, was refused by notice dated 17 October 2012.
- The development proposed is the erection of a first floor rear extension and a small ground floor side extension.

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### **Decision**

1. I allow the appeal and grant planning permission for the erection of a first floor rear extension and a small ground floor side extension at 4 Watery Lane, Scropton, Derby, DE65 5PL, in accordance with the terms of the application ref 9/2012/0587/FH, dated 3 July 2012, subject to the following conditions:
  1. The development hereby permitted shall begin not later than three years from the date of this permission.
  2. The development hereby permitted shall be carried out in accordance with the following unnumbered approved plans: location plan, existing plans, section & block plan, existing & proposed roof plans, proposed plans rev A, existing & proposed elevations.
  3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### **Inspector's reasons**

2. No objection is raised to the side extension. The main issue is whether the first floor extension would harm the living conditions of the occupants of no 3 next door.
3. Nos 3 and 4 make up a pair of semi-detached houses on the east side of Watery Lane. No 4, the more northerly of the pair, has a rear ground floor projection or extension almost 3 m deep extending the full width of the house, ie up to the boundary with no 3. The proposed first floor extension would be exactly above that. No 3 has a 2-storey rear extension

approaching 5 m deep, but offset about 1½ m from the common boundary with no 4.

4. Within the 1½ m “recess” in the main rear wall of no 3 is a glazed door and glazed side panel on the ground floor with a further window at first-floor level above. The concerns about the first floor extension proposed at no 4 relate to its effects on people in the kitchen at no 3 that has the glazed door and glazed side panel.
5. The Council claims that there would be overshadowing. Interpreting that word strictly, ie relating to loss of sunlight, there is no need for concern as what is proposed is to the north of the door and side panel. In addition – and I had the opportunity of viewing the position from within the house at no 3 – my judgment is that such loss of light as would arise would be very limited and would be confined to an area very close to the door. Some light loss is already experienced there as a result of the ground floor projection/extension at no 4, but the addition of a first floor extension above it would make very little difference in that respect. From within the house at no 3 the existing rear extension at no 4 is seen, and the first floor addition above it would be seen, as very much to the side, and the proposed addition could not be properly described as overbearing. The proposed addition would only be seen from very close to the door. In the same way I do not believe that any “tunnel effect”, as referred to by the occupant of no 3, would be much worse than at present.
6. I saw that the first floor window at no 3 that I mention in paragraph 4 above is a bathroom window, and I take no exception to the proposed rear extension with regard to that.
7. Housing Policy 13 of South Derbyshire Local Plan says residential extensions will be permitted if they are not detrimental to the amenities of adjoining properties. For the reasons I indicate above, I do not consider that what is proposed would conflict with that policy. I appreciate that the Council's supplementary planning guidance “*Extending your Home*” indicates that a 45° line from the centre of a relevant window should not be breached, as it would be here, but any material harm is caused already by the ground floor extension at no 4.
8. The other matters raised are of less importance, hence my decision to allow the appeal. Two of the conditions that I impose follow the Council's suggestions; the third (relating to the approved plans) is for the avoidance of doubt.

*Mike Croft*

Inspector