

REPORT OF THE HEAD OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications

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

1. PLANNING APPLICATIONS

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

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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. 9/2011/0438/NO

Applicant:
MR S & MRS S & MS CHIPMAN

Agent:
MR A THOMAS
THOMAS TAYLOR PLANNING LTD
CASTLE HOUSE
SOUTH STREET
ASHBY DE LA ZOUCH

Proposal: **ERECTION OF NEW INDOOR RIDING SCHOOL,
PROVISION OF REPLACEMENT OUTDOOR MANEGE,
TOGETHER WITH ASSOCIATED ACCESS AND
PARKING ARRANGEMENTS AT WOODSIDE FARM
GRANGEWOOD GRANGEWOOD SWADLINCOTE**

Ward: **SEALES**

Valid Date: **26/05/2011**

Reason for committee determination

Members will recall this application was presented at planning committee on 11 October 2011 but was deferred for a site visit. No updates or further responses have been received since then therefore the original report is presented again below.

This application is brought before this committee following a request by Councillor Hall advising that local concern has been expressed about a particular issue.

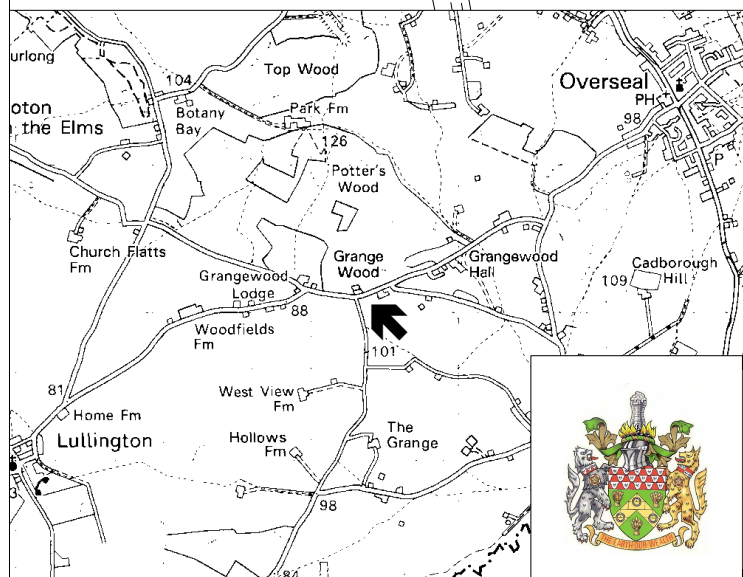
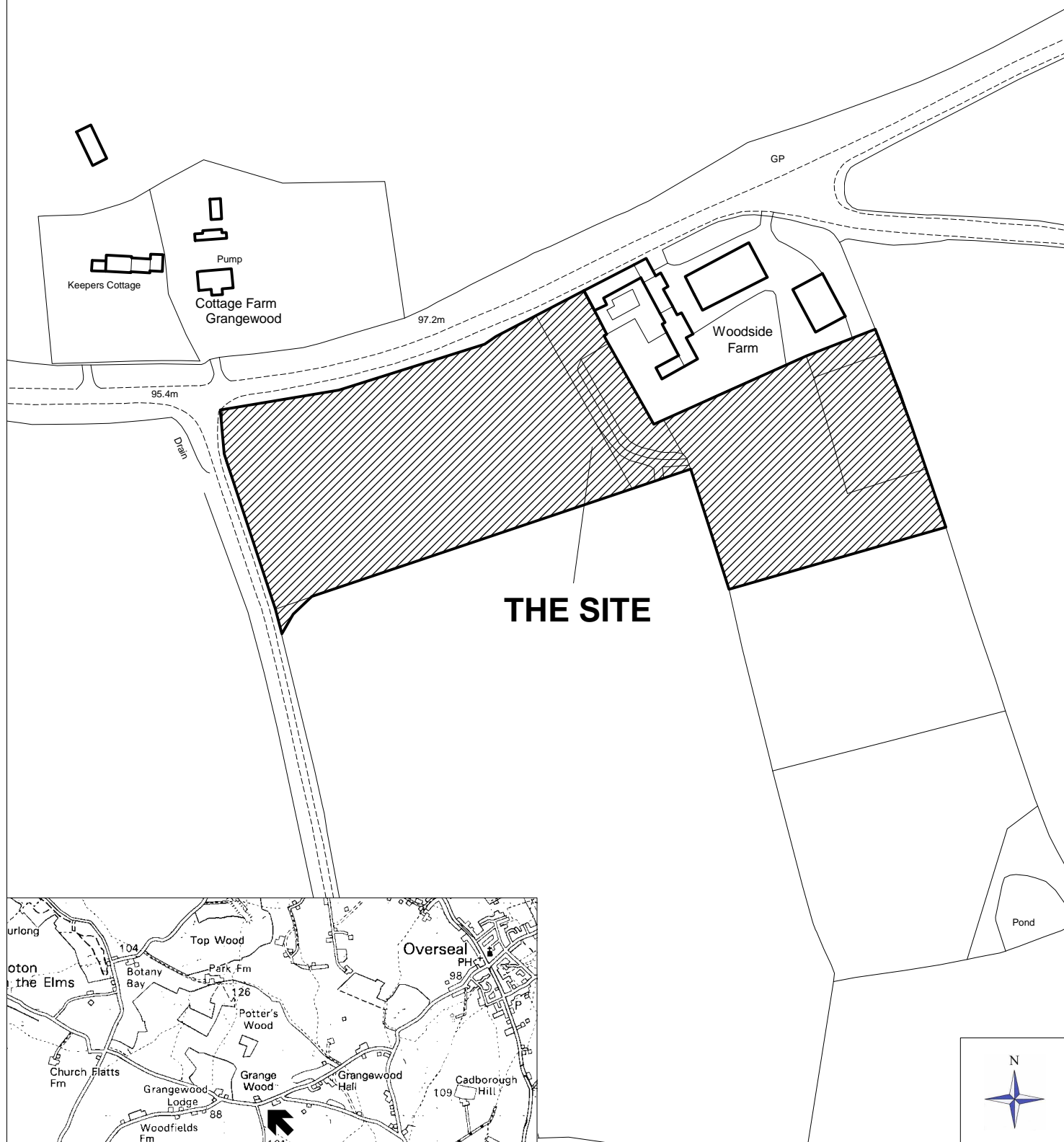
Site Description

The application site is part of a farm, which is located within the open countryside, between the villages of Overseal and Netherseal. The site is part of Woodside Farm and is located within the catchment area of the River Mease Special Area of Conservation (SAC). The farm over the years has diversified and now concentrates on equestrian usage although not currently at a commercial level. There are few residential properties in the area, the nearest being Cottage Farm on the opposite side of the road.

Proposal

The proposal is to:

**9/2011/0438 - Woodside Farm, Grangewood, Grangewood,
Swadlincote DE12 8BG**



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South Derbyshire District Council. LA 100019461. 2010

- Erect a new indoor riding school to the south of Woodside Farm on the site of the existing outdoor ménage, to the south west of Lodge Road measuring approximately 21m in width x 40m in length x 5.7m in height (4.7m to the eaves)
- Erect an outdoor manege to replace the existing manege to the east of Woodside Farm adjacent to Grangewood measuring approximately 58m x 19m
- Close an existing access onto Grangewood and construct a new vehicular access on Clifton Road to serve the development
- Create an area of car parking

Applicants' supporting information

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

- The proposal involves a recreational development of the type supported by Recreation and Tourism Policy 1. The applicants live at Woodside Farm and have existing equestrian facilities there (comprising of an outdoor ménage, grazing land and stables)
- The indoor school is essential to further the career and training of the applicants daughter and to allow training during poor weather and in the evenings
- The indoor school would be used in conjunction with the existing facilities and replacement indoor ménage will improve facilities for wider leisure and tourism uses beyond private use.
- It is essential to have the indoor riding school close to the ménage, stables and grazing land where the applicant's horses are stabled.
- The location of the proposed indoor riding school/ménage has been chosen after much discussion with planning officers and consideration of alternatives. The building would be 'dug-in' to rising ground behind the existing buildings so that views of the building would be screened as far as possible and seen against either a foreground or backdrop provided by the existing building.
- Views of the building from Lodge Road would be limited due to the siting of the building at a lower level and a mixture of the existing mature boundary hedge and the proposed tree planting.
- The outdoor ménage would be largely hidden by a new landscaped earth bank, which would screen the surface and fencing.
- No floodlighting is to be provided and there would be scope to provide significant woodland tree planting being designed to have as little impact as practicable on the countryside.
- The proposal is well related visually and physically to the existing complex of buildings at Woodside Farm and would preserve the landscape character in the area, which would remain one of essentially open fields and scattered woodland and copse punctuated by isolated farms and houses.
- A safe means of access/egress will be provided together with off-road manoeuvring and parking space for vehicles associated with the proposal.

The application site lies within the catchment area of the River Mease SAC/SSSI and therefore has been accompanied with a Habitats Regulations Assessment. This concludes that the proposal would not have any significant effect upon the River Mease SAC and would not undermine its conservation objectives.

Following concerns expressed by the Planning Authority regarding the proposed access driveway on Clifton Road and its location, an amendment plan was received which is in accordance with the recommendations of the planning officer and highway officer. This includes:

- Moving the access closer to Clifton Road.
- Providing a large landscaping buffer to the access road, screening it from Grangewood

The local Ward Member and the Parish Council expressed concerns regarding localised flooding and accordingly e-mail correspondence was received during the application process clarifying this issue. The applicant has provided the following comments:

- There are two other vehicular accesses to the site available through the “host” property at Woodside Farm and they are not intended for day-to-day use. However they could be used for emergency use as an alternative dry access route if necessary
- As far as surface water drainage is concerned on-site soakaways would serve the proposal and a planning condition to ensure a suitable system of drainage is acceptable to the applicants.
- There will not be any likelihood of the current proposal increasing the risk of surface water flooding in the area and any nearby flooding problems experienced previously are associated with matters unconnected to the current proposal.

Responses to Consultations

The Environment Agency has no comment.

The Environmental Protection Team (Environmental Health) does not raise any objections to the development as proposed and advises that the developer should contact the Commercial Section on all matters relating to health and safety or the Licensing Section relating to Horse Riding Establishments licensing.

Natural England does not raise any objections, advising that the scale of the proposal and terms and conditions of the application and submitted plans take account of the impact on designated sites and that the application may provide opportunities to incorporate features into the design which are beneficial to wildlife.

Derbyshire Wildlife Trust does not raise any objections to the development as proposed and advises that the hedgerow that is shown to be removed on Clifton Road comprising of at least 80% native species, meets the definition of a UK BAP priority habitat, therefore replanting using a mix of native species is required. Additionally the mature hedgerow alongside the existing outdoor ménage should be retained, banks should be regraded using a wildflower seed mix in preference to mass tree planting and also a check for badger setts should be carried out prior to any works commencing on the hedgerows.

Drainage Officer does not raise any objections to the development as proposed and advises that the District Council does not have any record of flooding at this location. As no surface water drainage proposals are included in the application a condition requiring details to be submitted prior to commencement is proposed.

Netherseal Parish Council advise that they are concerned regarding the siting of the proposed access to serve the development, the lane being virtually single track and is prone to flooding. In addition there is lighting to the existing manege.

County Highway Authority does not raise any objections to the development as proposed following the amended plans received on 1 September showing a revised access being located approximately 30m to the north of the original proposed access submitted in May. Conditions relating to the access and parking and manoeuvring details are required.

Responses to Publicity

Three letters have been received from the same residents in a neighbouring property. Whilst supporting the application as submitted the neighbours advise that they object to the application unless the following points are conditioned i.e.:

- The plans are inconsistent with relation to the size of the outdoor ménage
- No external lighting or PA system should be permitted
- The access road from Clifton Road should be graded so that the finished level is not less than one metre below the existing ground level
- Increased bunding running parallel to the northern boundary of the track should be provided
- The proposed landscaping should be increased in depth and mature locally native trees and evergreen species should be used along the northern edge of the track and also around the outdoor ménage.

National Guidance

PPS 1, 4 and 9
PPG 13

Development Plan Policies

The relevant policies are:

Saved Policies from the Local Plan: Environment Policies 1 and 10, Recreation and Tourism Policies 1 and 9 and Transport Policy 6.

Planning Considerations

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

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

Planning Assessment

The proposed indoor riding school and replacement outdoor ménage have been the result of extensive pre application discussions at the site for over five years. The current proposal is for an indoor riding school to be sited to the south of the existing buildings at Woodside Farm, where the current outdoor ménage is located, and sunk down into the ground by 1.8m to reduce its visibility from Lodge Road with extensive tree planting proposed to all boundaries on the east, west and south being approximately 10m in depth. A replacement outdoor ménage would be located running parallel to

Grangewood but located 1.6m away from the highway with a landscaping buffer proposed to the north, south and west of the ménage. The proposal would require the creation of a new access driveway from Clifton Road to run to the rear of the proposed outdoor ménage and this would also involve the closure of an existing access onto Grangewood. This area would then become a parking area for 9 cars.

With regards to whether the development proposed is in line with national guidance and development plan policy, Planning Policy Statement 1 and Planning Policy Statement 4 support the development of tourism, equine enterprises and diversification. In this regard Policy EC6 of Planning Policy Statement 4 advises that where appropriate, local planning authorities should support equine enterprises, providing for a range of suitably located recreational and leisure facilities and the needs for training and breeding businesses that maintain environmental quality and countryside character. The proposal being sunk into the ground and being surrounded by landscaping buffers of up to 10m in depth would provide an equine enterprise which would also maintain the environmental quality and character of the countryside where the proposal is to be sited, being fully in accordance with Planning Policy Statements 1 and 9.

The most relevant development plan policies are Environment Policy 1 and Recreation and Tourism Policies 1 and 9. Environment Policy 1 advises that new development will not be permitted unless it is essential to a rural based activity, or unavoidable in the countryside and the character of the countryside, landscape quality, wildlife and historic features are safeguarded and protected. The proposed indoor riding school cannot readily be accommodated elsewhere other than in the countryside and would be unobtrusive by it's siting behind the existing buildings at Woodside Farm, being sunk into the ground and screened by existing hedgerows and proposed new landscaping. It would provide a recreational facility in the area where car parking and manoeuvring is provided, with safe access off Clifton Road. There would be very little impact from the outdoor manege on the two neighbouring properties opposite and due to the development being screened with a landscaping buffer, whilst being easily viewed from the highway of Grangewood - it would maintain an open aspect with post and rail fencing.

The materials have been designed to be in keeping with the area and its surroundings and the colour proposed to clad the indoor ménage can be conditioned. The keeping of horses is a rural based activity that is acceptable in the countryside and there would be no further impact on the landscape, wildlife or countryside.

With regards to Recreation and Tourism Policies 1 and 9, these advise that the development should not cause disturbance to local amenity by virtue of noise or traffic generation. Adequate access, parking, servicing, screening and landscaping should be provided together with developments being sited in close proximity to existing buildings and provision should be made for the safe movement of horses and riders.

The County Highway Authority is satisfied that subject to conditions there are no highway safety concerns and adequate access, parking and servicing is proposed.

Both Derbyshire Wildlife Trust and Natural England are satisfied subject to conditions that there are no environmental concerns and that the proposal has taken account of its siting within the catchment area of the River Mease SAC.

The neighbour's and Netherseal Parish Council's concerns are noted and have been addressed above, with the exception of floodlighting and localised flooding. With regards to localised flooding the Council's Land Drainage Officer advises that there are no records of flooding at this location, and a suitably worded condition can control this. The agent has also been contacted during the application process with regards to this concern and advises that:

..." there are two other vehicular accesses to the site available through the "host" property (Woodside Farm). There is one located alongside the main group of buildings and another behind the gates onto Lodge Road. It is not intended to use either of these for day-to-day use of the proposed development (which is why a new access drive is being proposed) although the submitted plans allow an existing gate between the "host" property and the application site to permit "through-access" (and then to either of these two alternative access points) for emergency purposes only (see application drawing 2011.007-001B). I suggest that either of these would be sufficient to provide an alternative dry access route if necessary"

Whilst no floodlighting is proposed a condition is considered appropriate as floodlighting can lead to an urbanising feature in the countryside if it is not controlled adequately.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the cladding sheets to be used in the construction of the external walls, and roof of the building have been submitted to and approved in writing by the Local Planning Authority. The 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. Notwithstanding the particulars of the application, revised details of the proposed roller shutter door and external access doors on the indoor riding school shall be submitted for approval in writing by the Local Planning Authority prior to commencement of building operations.

Reason: The submitted details are considered unsatisfactory.

4. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no's 2011.007-003B, 2011.007-001B, 2011.007-004B and 2011.007-002B.

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

5. 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.

6. Before any other operations are commenced, a new vehicular access shall be created to Clifton Road, all in accordance with the application drawing 2011.007-001B, laid out, constructed and provided with visibility splays extending from a point 2.4m from the carriageway edge, measured along the centreline of the access, for a distance of 80m in the northerly direction and 65m in the southerly direction, measured along the nearside carriageway edge. 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 (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interest of highway safety.

7. Before any other operations are commenced (excluding creation of the new access, the subject of Condition 6), the existing vehicular access to Grangewood shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as verge in a manner to be agreed in writing with the Local Planning Authority in consultation with the County Highway Authority.

Reason: In the interest of highway safety.

8. The proposed access drive to Clifton Road shall be no steeper than 1 in 14 for the first 15m from the nearside highway boundary and 1 in 10 thereafter.

Reason: In the interest of highway safety.

9. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with application drawing 2011.007-001B for the parking and manoeuvring of visitors and service/delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety.

10. 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.

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

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

12. A detailed survey of the presence of protected species (namely badgers) shall be submitted for approval in writing by the Local Planning Authority prior to commencement of removing any hedgerows on site.

Reason: The presence of disused badgers set entrances have been found and the District Council require a survey as to the potential for protected species to be on site.

13. No external lighting shall be installed without the prior permission of the Local Planning Authority given on an application made in that regard.

Reason: In the interests of preserving the amenity of the countryside from unwanted visual intrusion through urbanising features.

14. Prior to the use commencing facilities for roosting bats and bird nest boxes shall be provided at the indoor riding school in accordance with details, which shall have been submitted previously to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of the preservation of the species.

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 shall be given to the Environmental Services Department at County Hall, Matlock (tel: 01629 538595) before any works commence on the vehicular access within highway limits.

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

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

The developer should contact the Commercial Section on all matters relating to health and safety or Licensing Section relating to Horse Riding Establishments licensing.

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

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

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

Item **1.2**

Reg. No. **9/2011/0685/SGF**

Applicant:

KEYSTONE LINTELS LTD
RYDER CLOSE
CASTLE GRESLEY
SWADLINCOTE

Agent:

MR ANDY NEAL
KEYSTONE LINTELS LTD
RYDER CLOSE
CASTLE GRESLEY
SWADLINCOTE

Proposal: **CHANGE OF USE OF APPROX 2.5 HA OF GRASSLAND
INTO HARD STANDING FOR USE AS A STOCK YARD
AT KEYSTONE LINTELS LIMITED RYDER CLOSE
CASTLE GRESLEY SWADLINCOTE**

Ward: **CHURCH GRESLEY**

Valid Date: **16/08/2011**

Reason for committee determination

There have been more than two objections to this major application.

Site Description

The application site is south of Cadley Hill Industrial Estate, and is adjacent to the premises of Keystone Lintels Limited. The land is currently grassland and is underdeveloped. Fences and hedges border the application site.

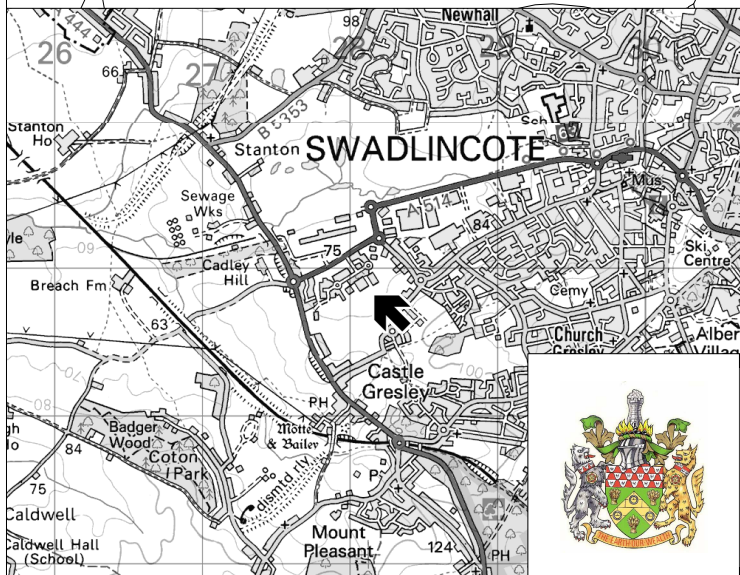
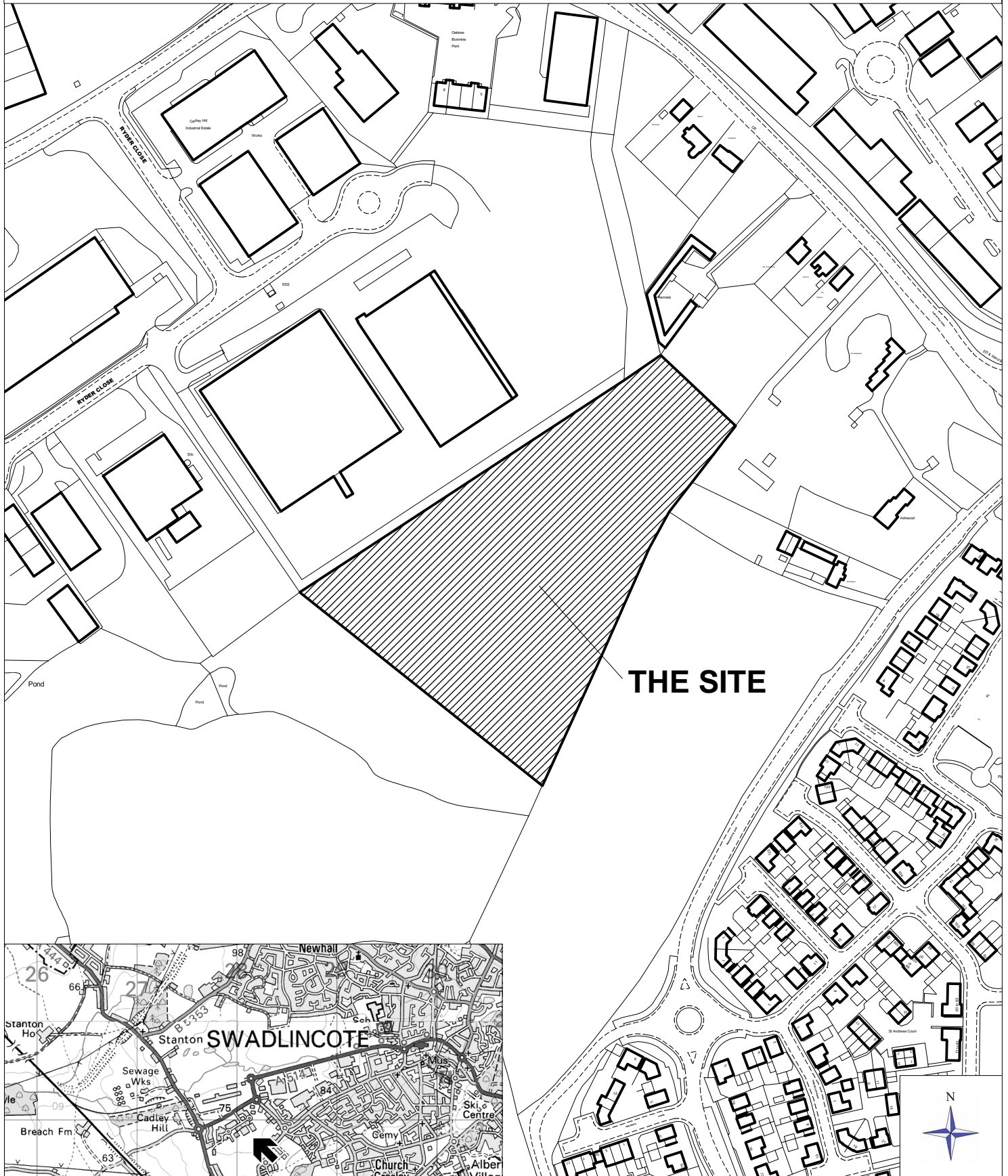
Immediately west of the application site, outline planning permission was granted for Business (B1), General Industrial (B2) and Storage and Distribution Development (B8). Immediately southeast of the application site is a field and further southeast of this field lies a large residential housing estate (Castleton Park), which is at a higher level than the application site. Residential properties are also situated to the northeast of the application site.

Proposal

This proposal is for the change of use of 6 Acres of Grassland into Hard Standing, for the use of a stockyard storing steel lintels, at Keystone Lintels Limited, Ryder Close, Castle Gresley.

Applicants' supporting information

9/2011/0685 - Keystone Lintels Limited, Ryder Close, Castle Gresley,
Swadlincote DE11 9EU



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The majority of lintels would be stored on the ground in single packs, which would be 1.2 meters high, and on occasions stack to up to 3 packs high, which would measure 3.6m.

Planning History

9/2005/0341: the erection of a distribution warehouse marshalling yard and access at land adjoining the premises of Keystone Lintels Limited. Condition 8 limits the operation time of the business *"No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times nor at any time on Sunday, Bank or Public Holidays: 8am to 6pm Monday- Friday, 8am to 1pm Saturday."*

9/2009/1037: Granted outline application for Business (B1), General Industrial (B2) and Storage and Distribution Development (B8), including access at Land south of Cadley Hill Industrial Estate, Castle Gresley (immediately west of the application site).

Responses to Consultations

The County Highway Authority considers that it would appear the proposed storage area would be ancillary to the existing use of the adjacent premises. On this basis County Highways has no objections.

The Contaminated Land Officer has no comment.

The Environmental Health Officer states that the applicant was not required to produce a noise survey. A noise survey was carried out some years ago and recommendations were made, which the applicant took on board. Management tools are now in place to minimise noise from the site. No complaints have been received this year. There has only ever been one complainant and this was regarding noise before 7am from the moving of lintels in the stockyards. If planning permission were granted the Environmental Health Officer would recommend one condition, which restricts the movement of lintels in the stockyard before 7am each day.

Responses to Publicity

There have been 3 objections from neighbouring households raising the following issues:

- Without any screening banks or trees planted the enjoyment of property through noise and visual impact will be impaired.
- Even before they extend their storage space into the proposed field their current yard looks a disgrace. If planning permission was granted to extend their storage space, it should be on the condition that they landscape the boundaries with trees to hide the lintels that they will be storing.
- There are a lot of families with children at the Redrow estate which overlooks Swadlincote Lane, bringing an industrial yard with industrial machinery closer poses a significant risk.
- The Local Plan identifies the site as suitable for industrial and commercial use (Employment Policy 2). It is considered to be inappropriate to locate a commercial use, such as a stockyard in close proximity to a residential property

given the likely adverse impact it will have on the amenities of the properties, such as noise pollution.

- Keystone Lintels already produces large volumes of noise. I can already hear their daily activities from their current yard area without the yard being closer to us.
- No assessment of the noise levels of the proposed stockyard has been completed to accord with the advice and guidance of BS 4142:1990 and PPG24. It is considered that provision of the proposed stockyard in close proximity to the residential property of Ashwood (which shares a boundary with the application site), would result in unacceptable noise levels to the detriment of the amenities of the dwelling, contrary to PPG24 and Policy E8 of the South Derbyshire Local Plan.
- Approval of this application will exacerbate the exiting noise issues at the site, given the application form states that the stock yard would be used between the hours of 7am and 9pm on weekdays, in excess of the conditions attached to the existing planning permission for the site and application 9/2005/0341. There is concern that the entire operation of Keystone Lintels will take place between the hours of 7am to 9pm on weekdays, in contradiction of the original planning permission of the site and planning permission 9/2005/0341.
- The proposed hard standing will consists of compacted stone, an impermeable material. No drainage is proposed, and no flood risk assessment has been provided to assess the impact of the hard standing on drainage and flood risk. It is considered that surface water from the proposed hard standing will run off from the proposed hard standing into the grassland surrounding the site, including the rear garden of Ashwood, given it will not be able to soak through the hard standing. This could result in flooding issues for the property, contrary to the guidance and objectives of PPS25.
- The Environment Agency states that there is no risk of flooding in this area. This information is out of date. There is a large housing development nearby the site, which is on higher ground level than the proposal site. This will cause a flow of surface water down towards the fields to the application site. I have lived here for 2 years and have seen that field flood over both winters. The introduction of another hard surface will only hinder the flooding of the field.
- No details of the site layout, where and how high the stock will be stored are proposed. Therefore, should the application be permitted, the applicant will be able to pile stock high and against the boundary shared with Ashwood. This would create an overbearing effect on the dwelling, to the detriment of the amenities of the residential property, contrary to policy E8 of the South Derbyshire's Local Plan.
- No screening or landscaping is proposed, exacerbating the likely overbearing effect and adverse impacts on the amenities of Ashwood, contrary to policy 8 of the South Derbyshire's Local Plan.
- The application should be invalidated given the submitted location plan identifies the application site in red, but does not identify any other land owned by Keystone Lintels in blue.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan Policy 3, 12

South Derbyshire Local Plan:
Environment Policy 10, Employment Policy 1,2, Transport Policy 6

National Guidance

PPS1, PPS4

Planning Considerations

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

- The principle.
- Impact on the character of the area.
- Residential Amenity.

Planning Assessment

South Derbyshire's Local Plan Employment Policy 2 allocates 14ha of land for B1, B2 and B8 development, south of Cadley Hill Industrial Estate. This allocation includes the application site. The principle of industrial development on this site has therefore been established since 1998 (adoption of the Local Plan).

Within East Midlands Regional Plan, Swadlincote is included within the Three Cities Sub-Regional Centres where "appropriate development of a lesser scale should be located". Policy 20 states that allocations of employment land should be allocated in suitable locations and should "be responsive to market needs". As mentioned above the site has been allocated for employment use since 1998. The site is within the urban area of Swadlincote, adjoins an existing industrial estate, and this application is for the expansion of Keystone Lintels Limited industrial premises.

South Derbyshire's Local Plan Employment Policy 1 allows for the expansion of industrial and business uses on or adjacent to their existing site, providing that the proposal is not detrimental to the character of the locality or residential amenity, and does not cause environmental or traffic problems.

This proposal complies with this policy. On the advice of the County Highway Authority the application will not create any detrimental highways impacts. The character of the locality would not be detrimentally impacted given that the proposed stockyard would be in keeping with the industrial uses, which occur north and (have been granted planning permission) west of the application site. Any visual impact the proposal could have, could be mitigated by the two conditions mentioned below.

Due to the close proximity of the application site to residential development, concerns have been raised that the application will detrimentally affect the residential amenity of these properties. There is a limited view of the application site from Cadley Hill Road, and the properties along Cadley Hill Road are also fairly well screened from the application site by trees. However the residential development near Swadlincote Lane is on a higher ground level than the application site. From these dwellings and from Swadlincote Lane the application site can clearly be seen. To limit the visual impact the proposal would have on the nearby properties, two conditions could be imposed. The lintels could be stacked to a maximum height of 4 metres, and before any development

can take place boundary treatments that have been previously approved by the Local Planning Authority could be implemented, to screen the lintels being stored.

Concerns have been raised regarding the noise the proposal may create. However to ensure that the operation of the proposed stockyard takes place during sociable hours, and the noise of the proposal would not detrimental impact the amenity of the surrounding dwellings, a condition could be imposed which limits the movements of lintels in the stockyard between 8am to 6pm Monday – Friday and 8am to 1pm Saturday. This time restriction condition is more stringent than that proposed by the Environmental Health Officer. However due to the proximity of the proposed stockyard to nearby dwellings, a more stringent condition seems appropriate. The time restrictions are the same as those imposed on the distribution warehouse opposite the application site owned by the applicants, which was built in 2005.

These conditions would ensure that the proposal would not detrimentally impact on the amenity of nearby properties.

With regards to neighbours concerns that are not addressed above, the following points are relevant:

- The proposal site is within flood zone 1, therefore a Flood Risk Assessment did not need to be produced, and the Environment Agency did not need to be contacted regarding this application
- The proposal is not immediately next to Swadlincote Lane. The industrial use should not pose a significant risk to nearby residents.

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

Recommendation

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 Lintels or any other products or materials stored in the stockyard shall not be stacked over 4m in height.
Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.
3. The stockyard shall not be used for the movement of Lintels or any other product or materials outside the following times, nor at any time on Sunday, Bank or Public Holidays: 8am to 6pm Monday - Friday and 8am to 1pm Saturday.
Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.
4. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in

writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

Item **1.3**

Reg. No. **9/2011/0769/FH**

Applicant:

MRS LISA BROWN
THE OLD RECTORY
CHURCH ROAD
EGGINTON
DERBY

Agent:

Mr. Eric J. Lee
Robinson Hill
The Stables
Melbourne

Proposal: **THE EXTENSION AND CONVERSION OF A DETACHED
GARAGE TO A GRANNY ANNEXE AT THE OLD
RECTORY CHURCH ROAD EGGINTON**

Ward: **ETWALL**

Valid Date: **15/09/2011**

Reason for committee determination

The application is brought before committee as Councillor Mrs Brown is the applicant.

Site Description

The application building is a new build detached triple garage (circa 1993) within the grounds of the Grade II listed building known as Benby House Farmhouse, an 18th century former Rectory, now a farmhouse. The garage is located to the north east of the principal building, attached to a 2.3 m high boundary wall, which separates the application site from its adjacent converted curtilage buildings (Rectory Mews) to the east of the site.

The application site lies outside the built limits of Egginton village within the countryside.

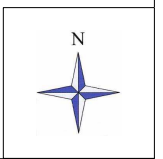
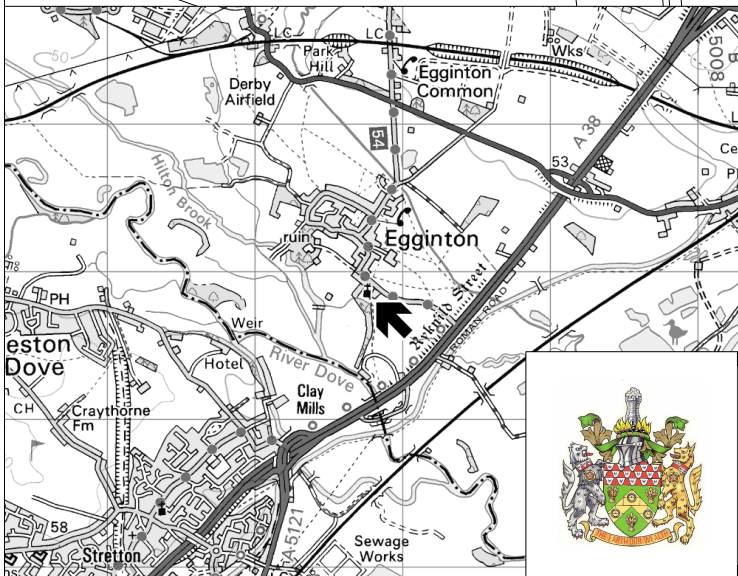
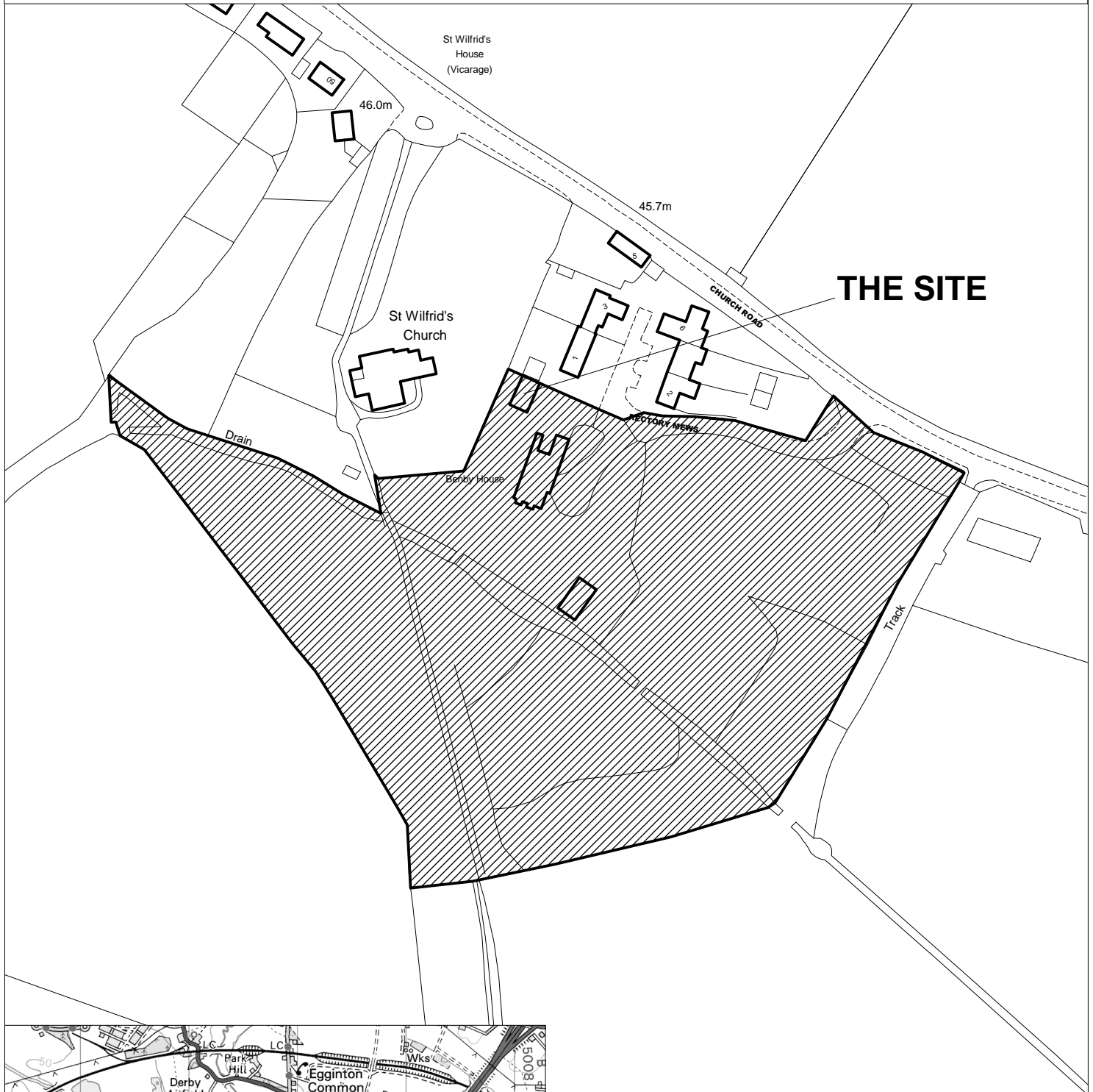
Proposal

The proposal is for the extension and conversion of the garage to form a 'granny annex'.

Applicants' supporting information

The Agent has submitted a Design and Access Statement (DAS) and a Heritage Statement which include the following:

9/2011/0769 - The Old Rectory, Church Road, Egginton, Derby DE65 6HP



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South Derbyshire District Council. LA 100019461. 2010

- The proposed development consists of the conversion of the existing triple garage at the property to form a residential annexe for occupation by the elderly parents of the applicant.
- The application building has a close physical relationship to the principal dwelling, The Old Rectory, and although all the facilities are included to allow for independent living, the intention is not to separate the building from the residential curtilage of the principal dwelling.
- As planning permission is required due to the building, which is classed as a building which is incidental to the enjoyment of the dwellinghouse (Class E of the amended 2008 Town and Country Planning Act), being within the curtilage of a listed building, it follows that the consideration of the application is limited to the minor elevational changes proposed.
- The existing garage is approximately 9.5m wide by 6m deep and it is proposed to construct a rear extension of 6m by 3.5m on the site of the existing log store. The proposed extension will provide a wetroom, bathroom and utility.
- The conversion has been designed with the smallest number of changes necessary to facilitate the new use. The existing garage doors will be infilled with timber patio doors and the proposed extension's materials will match the brick and tiles of the existing garage.
- No changes are proposed to the existing vehicular and pedestrian access arrangements. The applicant's parents reside in the village of Egginton and the annexe will eliminate the journeys the applicant needs to make on a regular basis resulting in a more sustainable situation than currently prevails.
- The garage was built post 1948 and is not listed in its own right. It is not classed as a curtilage structure.
- It is a modern brick and tile structure of simple construction and appearance befitting a structure intended and used for incidental purposes to the principal dwelling.
- The building is well screened from view being located towards the rear of the principal dwelling within a service area and there will be little visual impact on the setting of the listed building.

Planning History

Planning permission (ref: 9/0793/0354/F) was granted in September 1993 for the erection of a triple garage (the application site) attached to a new boundary wall along the north-eastern boundary of The Old Rectory.

Responses to Consultations

Egginton Parish Council has no objection.

The Conservation and Heritage Officer has raised no objection subject to the inclusion of conditions for material and pointing samples, painted flush fitting casements windows, the positions of any new flues and meter boxes and for the eaves, verges and rainwater goods to match the existing garage.

Responses to Publicity

No responses received.

Development Plan Policies

The relevant policies are:

Adopted Local Plan: Saved Environment Policy 13 and Housing Policy 13.

National Guidance

PPS 5

Planning Considerations

The main issues central to the determination of this application are the impact of the proposal on the setting of the principal Grade II listed building and on the amenities of the neighbouring properties.

Planning Assessment

The proposal conforms to the above-mentioned policies and the Council's supplementary planning guidance 'Extending your Home'.

The proposed extension and alterations to the existing garage have been sympathetically detailed and the proposal would not adversely affect the setting of the principal Grade II listed building or the amenities of the neighbouring properties.

The erection of an extension to provide additional accommodation to be used in conjunction with the existing dwelling is considered acceptable, however the Council would not normally be inclined to allow the formation of a separate residential unit in this locality. As the proposal would result in a detached building that would include all the domestic facilities necessary for the establishment of a separate self-contained unit, the Council would seek to make it clear by a condition that separate occupation is not authorised by this permission.

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 The Old Rectory or by domestic staff, and shall not be severed from the main house as a separate and unconnected dwelling.
Reason: Although the erection of an extension 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. 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 proposed development will be set no lower than existing levels 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.

4. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(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.

5. The new casement windows to the extension shall be flush fitting within their frames.

Reason: In the interests of the appearance of the building and the setting of the listed building.

6. All new 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 and the setting of the listed building.

7. 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, 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.

8. The eaves, verges and rainwater goods to the new extension shall match those of the existing garage unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the building and the setting of the listed building.

9. Pointing of the proposed extension 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).

10. A sample panel of pointed brickwork 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 prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

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

Informatives:

In the event that condition 3 is insufficient and floor levels within the extension must be set 300mm above the known or modelled 1 in 100 year (annual probability 1% chance) river flood level or 1 in 200 year (annual probability 0.5% chance) tidal & coastal flood level (which has been demonstrated by a plan to Ordnance Datum/GPS showing finished floor levels relative to the known or modelled flood level), it is likely that a further planning permission would be required.

Item **1.4**

Reg. No. **9/2011/0773/NO**

Applicant:

MR ED SUTTON
ASSURA/LSP DEVELOPMENTS
13 KILWARDBY STREET
ASHBY-DE-LA-ZOUCH
LEICS

Agent:

MR CHRIS CHEAL
WEST HART PARTNERSHIP LTD
5 ALDERGATE
TAMWORTH
STAFFS

Proposal: **THE ERECTION OF FOUR RETAIL UNITS INCLUDING
ASSOCIATED PARKING AND LANDSCAPING WORKS
ON LAND OFF GLAMORGAN WAY ADJACENT
GRESLEYDALE HEALTH CENTRE CHURCH GRESLEY
SWADLINCOTE**

Ward: **CHURCH GRESLEY**

Valid Date: **20/09/2011**

Reason for committee determination

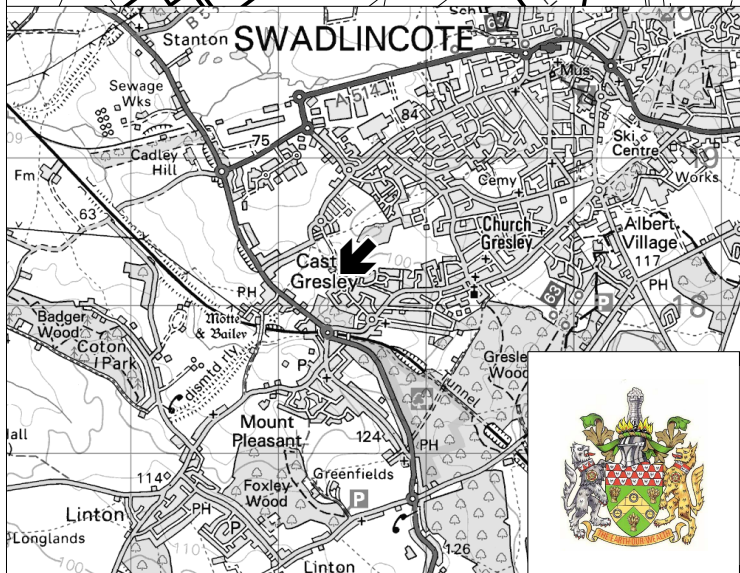
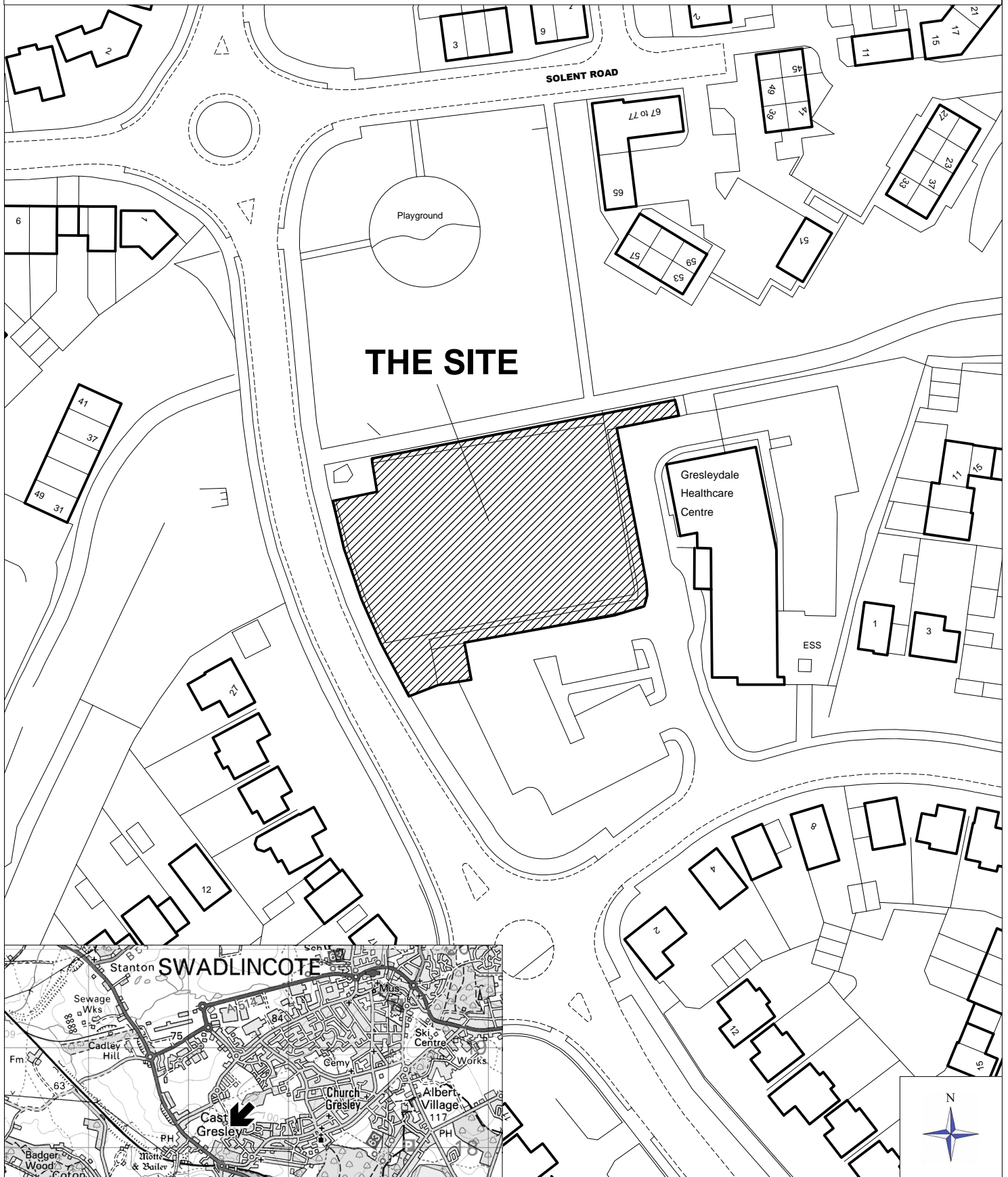
The application is brought to Committee at the request of Councillor Southerd in view of previous Committee and local concerns regarding the site which should be considered by the Committee.

Site Description

The application site is located in the centre of Castleton Park, a large residential development consisting of approximately 1,200 dwellings located on the edge of the Swadlincote urban area. The site is located in an elevated prominent location adjacent to Brunel Way, the main spine road through the estate, and to the west of the medical centre which, along with the application site, forms part of an area of land designated for use as a local centre to serve the surrounding residential development as stipulated in the original outline permission (9/890/0515) granted in 2000. Both the medical centre and the application site have vehicular access from Glamorgan Way.

The site is bordered along its immediate northern and eastern boundaries by Public Footpath 39 which was diverted through the local centre site as part of the outline approval. To the north beyond the footpath is an area of open space and a play area beyond which are residential properties. To the east is the medical centre with residential properties located to the south and west along Glamorgan Way and Brunel Way respectively.

**9/2011/0773 - Land off Glamorgan Way adjacent Gresleydale Health Centre,
Church Gresley, Swadlincote (DE11 9JT)**



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South Derbyshire District Council. LA 100019461. 2010

The application site is approximately 2m higher than the Brunel Way road level and rises to 3.2 metres adjacent to the medical centre. Dwellings on the opposite side of Brunel Way are set down from the road level.

Proposal

The application proposes the erection of four retail units with a mix of A1 (retail), A1/A2 (retail/office) and a single A5 (hot food take-away). The floor area of the larger retail unit, which it is understood would be occupied by Sainsbury's, would be 257 sq m with an additional backup area of 117 sq m for use as storage and the remaining three units each having a floor area of 93 sq m. A shared bin store and enclosed external plant area to the rear of the building are also proposed. Dedicated customer parking is proposed to the front of the units in addition to the existing car park with staff parking and delivery area proposed to the rear.

The proposed building is of a contemporary design to match the adjacent medical centre and would be single storey with the majority of the building being approximately 9-10m in height with the highest element being the raised entrance to Sainsbury's which would be approximately 12m in height. The mass of the building would be broken up by the variation in roof levels and materials used for the shop fronts. The exterior finish would consist of buff brick with rendered panels and a single ply membrane roof with grey powder coated aluminium fascias and soffits to assist in emphasising the relationship of the retail buildings and medical centre as a 'neighbourhood centre'. The side elevation to Brunel Way has been articulated to include shopfront glazing carried around the corner. Planting is proposed to the rear to partially screen the rear service elevation.

Applicants' supporting information

A Design and Access Statement has been submitted with the application which includes the following statements:

- The site as a whole presents a unique opportunity for a contemporary neighbourhood centre. It is envisaged that the retail element will strengthen the overall community usage and reinforce the strong identity and structure, which again is enhanced by the medical centre.
- The building is purposely positioned to ensure a prominent and strong build frontage providing enclosure to the external parking.
- The architecture will be distinctive from the surrounding residential houses and will contribute to the locality identity as the neighbourhood centre.
- The development will add to the mix of uses and reduce the necessity of public travel. There will be provision for cycle parking with good pedestrian access to the public areas and dedicated car parking.
- The road network for the entire development has been designed to allow for a neighbourhood centre which encompasses both the Retail and the Primary Care Centre provision.

- In designing the scheme particular emphasis has been provided on, amongst other things, elements such as the breaking up of the mass of the façade by utilizing the limited palette of materials to ensure a monolithic style is avoided and the use of quality materials to ensure a contemporary style is maintained that correlates with the medical centre and pharmacy.
- The building is entirely single storey and sits subserviently to the prominent medical centre.

Planning History

The application site was allocated as a Local Centre under the outline permission for Castleton Park (9/890/0515) with an obligation within the associated Section 106 for the land to be used to accommodate buildings for A1 (retail), A2 (office), A3 (hot-food take away) [now A5] and D1 (non-residential) uses.

An outline application for retail units and sixteen apartments (9/2007/1161) was refused by Committee in March 2008 by reason that the resulting building would be of a scale and design out of keeping with the area and overbearing on the occupiers of adjacent dwellings. The decision was upheld by an Inspector at appeal who opined that the proposal would have a materially harmful effect due to the combined effects of height and the closeness of the building to the nearest houses on Brunel Way.

A further application for five retail units, twelve two-bedroom apartments and two-one bedroom apartments (9/2009/0605) was refused by Committee in October 2009 as it was considered that the submitted design would still have an overbearing effect on the dwellings on the opposite side of Brunel Way especially given the difference in ground levels and that the proximity of the three storey element to the adjacent medical centre would also appear incongruous and have a harmful effect on the function of the adjoining surgery through unacceptable loss of light to the facing rooms.

Responses to Consultations

Environmental Health has no objection subject to a condition restricting deliveries to 0800 to 1800 Monday to Friday and 0800 to 1300 on Saturday with no deliveries on Sunday and a condition restricting opening hours to 0700 to 2300 seven days a week including Bank Holidays. Further conditions relating to the submission of details for odour control and lighting and restricting the noise levels of external plant would be required.

The Footpaths Officer (DCC) has commented that Public Footpath 39 would be affected by the proposed development in that both the delivery and customer access routes cross the footpath and this would therefore pose a safety risk to members of the public using the route. However, the Highway Authority has commented that whilst vehicles crossing the Public Footpath is not ideal the visibility available to both emerging drivers and pedestrians is adequate. The footpath appears to maintain its level (and can be conditioned accordingly) and the access is ramped to ensure pedestrian priority. As much of the space within the overall site could be deemed to be shared space, drivers should be aware of pedestrian movements and vice versa. The Highway Authority therefore has no objection.

The Contaminated Land Officer has no objection subject to standard conditions for the identification and control of any contaminated land.

The Crime Prevention Officer has commented that the location is away from any core dwelling areas which will avoid nuisance to any residential properties. However the businesses on site will need to be proactive to avoid potential anti-social behaviour issues which the Neighbourhood Police Team are already engaged in around the Medical Centre, car park and play area. Full enclosure of the rear semi-private staff parking areas is required and the redesign /enclosure of the meter room access and planting area will remove many foreseeable crime and ASB opportunities. CCTV will act as a deterrent and useful evidence gathering tool, use of laminated glass and good levels of lighting.

The Coal Authority has no objection.

Severn Trent Water has no objection.

Responses to Publicity

Two letters of objection have been commenting as follows:

- a) The development will significantly over shadow property due to the already elevated height of the land to be developed.
- b) There are currently problems with local parking on the medical centre car park late at night with car headlights shining directly into the house which will get worse by the sheer nature of increased business.
- c) The area already has an adequate number of retailers and we should be supporting our existing retailers in the community and not supporting plans for new ones.
- d) It seems bizarre that extra take away outlets are planned adding extra environmental pressures in respect of carbon footprint when existing fast food outlets are struggling.
- e) It would be easier to access off Brunel Way. The existing entrance is already providing a considerable increase in traffic. The road is not very wide and would be totally unsuitable, being extremely tight for lorries and would severely restrict parking outside adjacent properties and access to driveways.
- f) The car park for the surgery is already being used by groups of youths in cars.
- g) If the buildings are allowed there will have a constant stream of traffic going past adjacent property at all times of the day and night.
- h) The use of neon signs would be an eyesore.
- i) Who will be responsible for the upkeep of the landscaping and will there be sufficient litter bins to cope with all the extra rubbish?
- j) The increase in traffic would be extreme and pose a threat to local children, pets and the environment.
- k) It will draw gangs of youths to the area and people do not want to subject their children to such extreme circumstances.
- l) Has the option of putting CCTV in been considered?

One letter of support has been received commenting that the development is something that is needed, the nearest retail units being a bus or car journey away.

Development Plan Policies

The relevant policies are:
East Midlands Regional Plan: Policy 1, 2, 3 and 22
Local Plan: Shopping Policy 3 and Transport Policy 6

National Guidance

PPS1, PPS4, PPG13

Planning Considerations

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

- Principal of development
- Impact on residential amenity and Design
- Highways and Footpath issues
- Other issues

Planning Assessment

Principle of development

The provision of a local centre was negotiated at the outline stage for the overall development of Castleton Park and the centrally located land was safeguarded for this use on the development masterplan. The area of land was also stipulated in the Section 106 which states that the developer shall make available no less than 0.4 hectares of land within the site indicated on the masterplan as a Local Centre for the erection of buildings for uses within Classes A1, A2, A3 and D1 of the Town and Country Planning Use Classes Order 1987. The medical centre has been completed and this proposal completes the site to provide commercial facilities for this large housing development. The granting of the outline permission established that the principle of this development is acceptable.

Impact on Residential Amenity and Design

The previous applications included a residential element above the retail units and incorporated two and three-storey elements. In the original application in 2007, the Inspector was of the opinion that as the dwellings on Brunel Way were below the level of the road and the proposed building would be 2 metres above it the 3 storey end would be close to the properties and loom over them. He went on to state that although the building was set at an angle, it would occupy much of the outlook directly from the fronts of No's 25 and 27 Brunel Way and would be particularly close and overbearing in relation to No. 27. Therefore the proximity and height of the building in relation to this property was the major concern. The subsequent application in 2009 was not considered to address the Inspector's concerns sufficiently and furthermore the three-storey element was considered to cause loss of light to rooms within the medical centre and appear incongruous.

The current proposal is for a single storey building which is predominantly 9-10m in height. Taking into account the difference in ground levels with Brunel Way the building would sit approximately 2.3 m above Brunel Way. The submitted indicative site section shows that the mass of the retail units would be level with the ridge heights of properties

on Brunel Way and be subservient to the adjacent medical centre. As such the submitted scheme is now considered acceptable in that it addresses the previous concerns of both the Inspector and the Committee removing the issues of overbearance on adjacent dwellings and the incongruous impact and loss of light to the medical centre.

The contemporary design and use of a similar palette of materials to those used in the adjacent medical centre would assist in the cohesion of the site and its identity as a local centre.

Highways and Footpath Issues

The Footpath Officer has raised concerns regarding the delivery and customer access routes which would cross Public Footpath 39 which runs along the eastern boundary of the site. The applicant has submitted details which indicate that the alignment of the public footpath is incorrect on the definitive map and that the footpath should be aligned further to the east alongside the medical centre. If this is the case the Footpaths Officer has indicated that their initial concerns would be alleviated. The Footpaths Officer is addressing the issue and their further comments will be reported at Committee. This notwithstanding, the Highway Authority has advised that there is adequate visibility for both emerging drivers and pedestrians and that due to the general occurrence of shared space within the site drivers and pedestrians would be more aware of each other's movements in general. Sufficient parking and manoeuvring space has been provided within the site and the Highway Authority has no objections.

Other issues

Delivery and opening hours would be controlled by condition to ensure there is no significant adverse impact on adjacent residential amenity and a further condition would require the submission of a scheme to minimise the risk of crime at the application site.

Shop signage does not form part of this application and would be subject to control under the Town and Country Planning (Control of Advertisements) Regulations 2007.

Conclusion

The principal of retail use on the site was established as part of a Section 106 obligation through the outline consent for the development of Castleton Park. The current scheme is considered to address both the appeal Inspectors and Members previous concerns regarding overbearance and adverse impacts on residential amenity and the adjacent medical centre 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. Materials to be used in the construction of the external walls and roof of the building(s) and surrounding hard landscaped areas shall be in accordance with the submitted details as shown on drawing no. 610-310 Rev E received 15 September 2011 unless otherwise agreed in writing with the Local Planning Authority.

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

3. Notwithstanding the submitted details 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.

4. 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.

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

Reason: In the interests of highway safety.

6. Prior to any other works commencing, details shall be submitted and approved in writing by the local Planning Authority of the levels, layout and construction of the footpath along the eastern side of the site (which carries the route of Footpath 39, as shown on the Definitive Map) and the ramped access into the staff parking and delivery area. The footpath and access shall be laid out in accordance with the scheme prior to the first premises being taken into use and maintained as approved throughout the life of the development.

Reason: In the interests of highway safety.

7. Prior to the first premises being taken into use, the car parking, servicing and manoeuvring, space shall be laid out in accordance with the application drawing

(610-212 rev G) and maintained thereafter free from any impediment to its designated use.

Reason: In the interests of highway safety.

8. Prior to the first premises being taken into use, the secure cycle parking shall be provided in accordance with the application drawing 610-212 Rev G and maintained thereafter free of any impediment to its existing use.

Reason: In the interests of highway safety.

9. No deliveries shall be taken or despatched from the site except between the hours of 0800 to 1800 Monday to Friday and 0800 to 1300 on Saturday. No deliveries shall take place on Sundays, Bank or Public Holidays.

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

10. Notwithstanding the submitted details the premises hereby permitted shall only be open to customers between the hours of 0700 to 2300.

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

11. Prior to the occupation of the A5 unit a scheme for the control of odour emanating from the premises and the installation of a grease trap shall be submitted to and agreed in writing by the Local Planning Authority and implemented in accordance with the approved scheme.

Reason: In the interests of the amenity of the occupiers of nearby residential properties.

12. All mechanical ventilation and air-conditioning equipment shall be non-audible at the site boundary.

Reason: In the interests of the amenity of the occupiers of nearby residential properties.

13. Before development commences details of all external lighting equipment shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme should be erected and directed so as to avoid nuisance to residential accommodation in close proximity. The lighting should be designed to provide a standard maintained illumination (LUX) of between 5 and 20 LUX with the lower level being the preferable one. No other lighting equipment may be then used within the development other than approved by the Local Planning Authority.

Reason: In the interests of the amenity of the occupiers of nearby residential properties.

14. 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.

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

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

16. 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.

17. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

18. 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.

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.

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.

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

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been

produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp
Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

The developer should contact the Environmental Health Section on all matters relating to food hygiene. Food businesses must register with the Local Authority at least 28 days. A lobby is required for each toilet if proposed within the A5 unit.

Item 1.5

Reg. No. 9/2011/0828/NT

Applicant:
TELEFONICA O2 LTD/
VODAFONE LIMITED

Agent:
MR MATTHEW WAUGH
HIGHAM & CO
500 STYAL ROAD
MANCHESTER

Proposal: **THE PROVISION OF A 15 METRE HIGH STREETWORKS
TELECOMMUNICATIONS POLE WITH O2 AND
VODAFONE ANTENNAS LOCATED BEHIND A SHROUD.
ONE SMALL SCALE EQUIPMENT CABINET, ONE AC
METER PILLAR AND MINOR ANCILLARY WORKS AT
SITE ON THE GRASS VERGE FRONTING THE DRUM
AND MONKEY CASTLE ROAD CASTLE GRESLEY
SWADLINCOTE**

Ward: **CHURCH GRESLEY**

Valid Date: **06/10/2011**

Reason for committee determination

The application is referred to Committee at the discretion of the Head of Community and Planning Services because this type of development in urban areas has on occasion generated local concern. In this particular case the period for publicity would not allow for the matter to be reported to a later Committee in the event of significant local concern being expressed.

Site Description

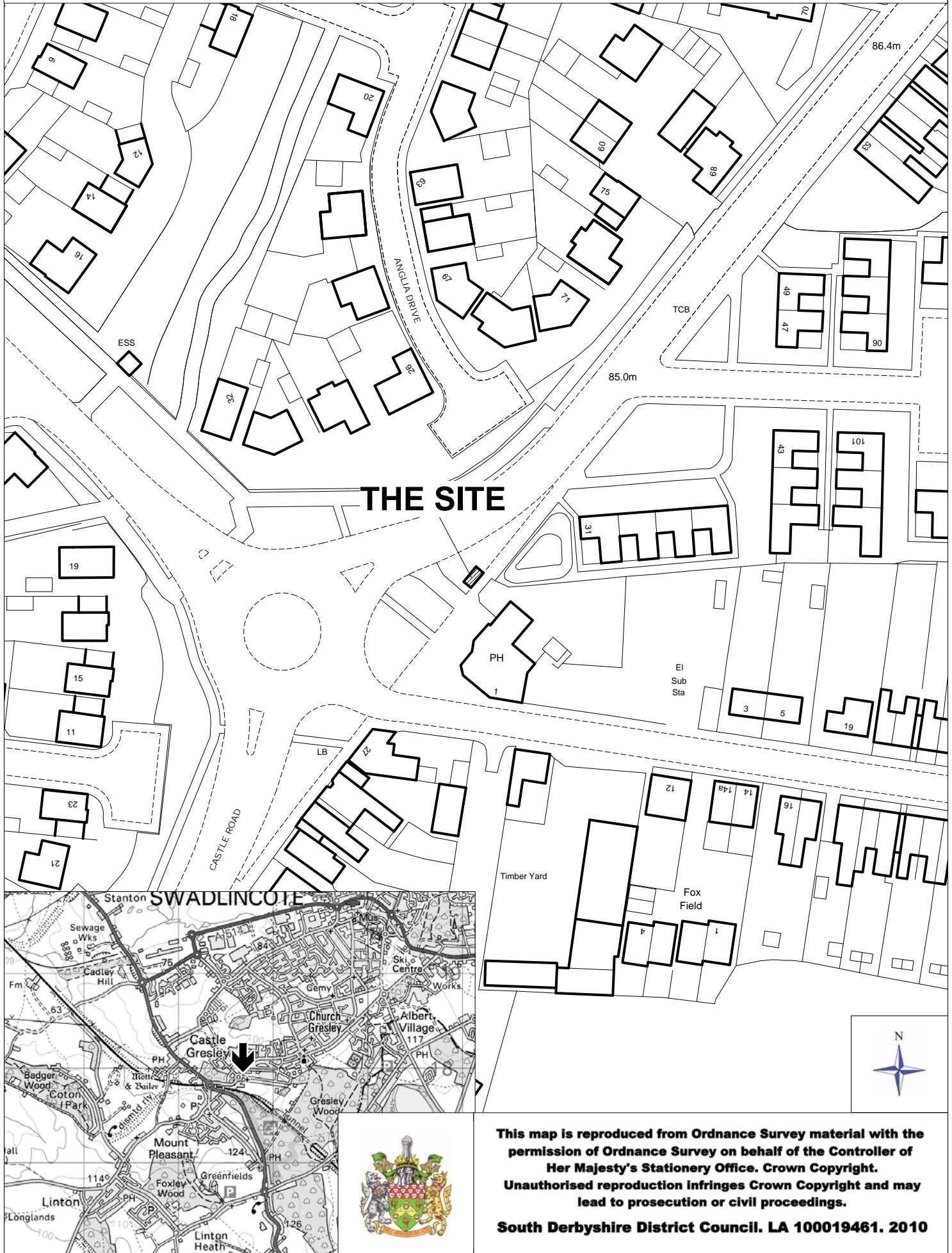
The site is located close to the traffic island connecting Castle Road with Brunel Way and Station Street. The locality is built up on both sides of the road. The application site is a section of grass verge in front of the Drum and Monkey pub.

Proposal

The proposal is for a pole-mounted antenna, to a maximum height of 14.8m with associated ground mounted equipment cabinet and electricity supply pillar. For reference the nearby street lighting columns are about 10m in height.

Applicants' supporting information

9/2011/0828 - Site on the grass verge fronting The Drum and Monkey, Castle Road, Castle Gresley, Swadlincote DE11 9LH



- Site specific supplementary information including evidence of pre-application discussion, consultations with neighbours and Councillors and summary of other sites considered and their suitability.
- Supporting statement.
- General background for Telecommunications development.
- Health and mobile phone base stations document.
- ICNIRP declaration and clarification certificate.
- Developers Notice.
- A site appraisal, which states that the design has been specifically developed for urban and suburban locations. The proximity of the pole to commercial premises and existing street furniture in the locality would assist in assimilating the installation into the street scene and minimize direct overlooking by residential properties.

Planning History

None.

Responses to Consultations

None.

Responses to Publicity

Two letters have been received objecting on the following grounds:

- a) Concern about the effect of radiation on health.
- b) Adverse visual impact in the context of proportion to street lighting columns.
- c) Unquantifiable consequence of damage caused by an accident.
- d) Impact on property values. A sale has faltered as a result of the application, de-valuing a house by £5000

Any further responses received prior to the meeting will be reported verbally.

Development Plan Policies

The relevant policies are:

Saved Local Plan: Community Facility Policy 4

National Guidance

PPG8

Planning Considerations

The main issues central to the determination of this application are the siting and appearance of the proposal.

Planning Assessment

The application has been submitted under Part 24 of the GPDO and is subject to a 56-day prior approval procedure. The applicant was advised during the application process that prior approval of the Local Planning Authority is required and under this procedure the only issues that can be considered are the siting and appearance of the proposal.

The applicant has submitted evidence to show that 11 other potential sites were considered in the area requiring coverage.

The proposed pole would be of slender appearance and would be seen in the context of street lighting columns around a traffic island. This type of telecommunications pole is regularly used in urban areas. In this setting the proposed pole and associated ground mounted cabinet would not have a demonstrably harmful visual impact.

Therefore the proposal complies with the adopted Local Plan Saved Community Facilities Policy 4 insofar as:

- there are no satisfactory alternative means for telecommunication available;
- the siting of the development would not result in an unduly prominent intrusion in the countryside or damage the character of areas of local landscape value, conservation areas or the setting or fabric of listed buildings; and
- the development is sited and designed so as to minimize its visual impact.

The site notice posted in the locality provides the general public with an opportunity to comment on the application until 9 November. The statutory time period for determining the outcome of the proposal pre-dates the next meeting of the Committee.

Recommendation

Subject to consideration by the Head of Community and Planning Services of any further representations received by 9 November 2011 **Approve** details as submitted.

Item 1.6

Reg. No. CW9/2011/0002/CW

Applicant:
MIDLAND PIG PRODUCERS LTD

Agent:
NAOMI LIGHT
FISHER GERMAN LLP
80 TAMWORTH ROAD
ASHBY DE LA ZOUCH

Proposal: **PROPOSED ERECTION OF A 2,500 BREEDING SOW PIG REARING UNIT WITH GRAIN STORE, FEED MILL, FEED HOPPERS, MESS BLOCK, WATER TREATMENT BUILDINGS TOGETHER WITH STORAGE BUILDINGS FEEDING AN ASSOCIATED ANAEROBIC DIGESTION FACILITY, SERVICE BUILDING, DIGESTATE AND METHANE GAS STORAGE TANKS SUPPLYING AN ELECTRICITY GENERATION FACILITY AND INCORPORATING A VISITOR CENTRE, 4 AGRICULTURE WORKERS DWELLINGS AND GARAGING, STRATEGIC LANDSCAPING, INCLUDING THE FORMATION OF BUNDS, A SURFACE WATER ATTENUATION POND, AND RAINWATER RETENTION AREA WITH SITE PARKING FACILITIES, WEIGHBRIDGES, SECURITY FENCING AND ASSOCIATED INFRASTRUCTURE UNDER DCC CW9/0311/174 AT LAND OFF UTTOXETER ROAD FOSTON**

Ward: HILTON

Valid Date: 08/04/2011

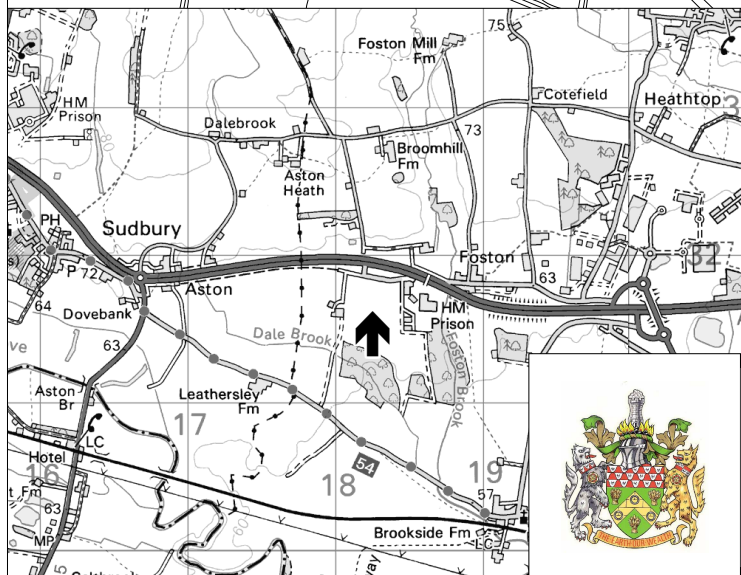
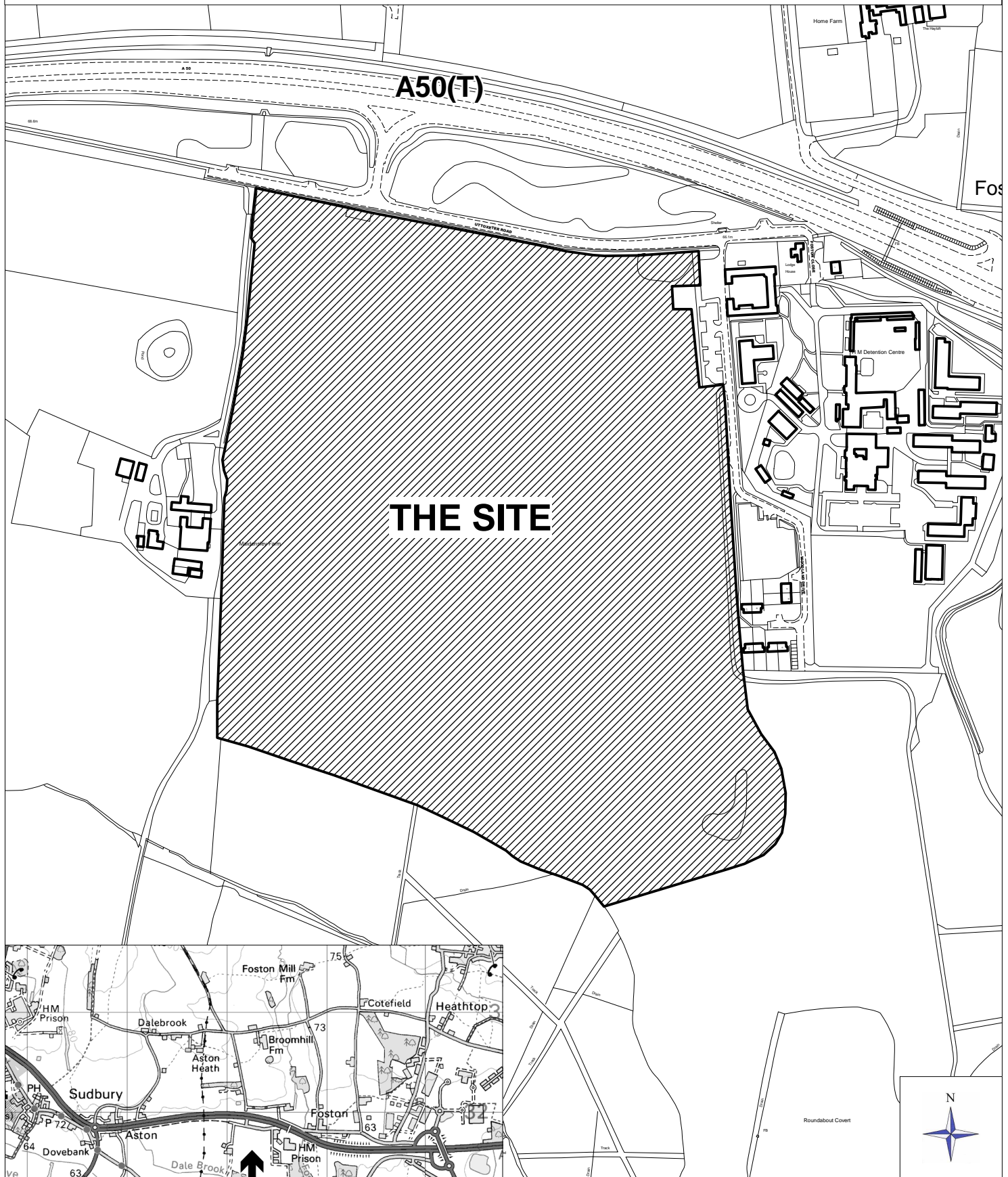
Report on additional information received from the applicants in respect of the proposed Pig Farm at Uttoxeter Road Foston.

Members will recall that at the meeting on 31 May 2011 it was resolved that the Council's comments on this application be deferred pending receipt of further information relating to the objection raised by the Environment Agency and the lack of an Emergency Plan for the site in the event that any of the systems proposed was to fail. The County Council has now received that information and it has asked this Authority to formulate its comments on the application.

This report is an addendum to the previous Committee report which is appended.

In addition to the information requested by this Council, the applicants have also amended the application in that the height of the flues has been reduced to 10m from the 25m previously specified. A further landscape impact assessment has also been submitted together with additional elevations relating to the tank farm and photographs

CW9/0311/174 - Land off Uttoxeter Road, Foston, Derby (DE65 5DL)



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South Derbyshire District Council. LA 100019461. 2010

relating to the impact of landscaping at Day 1, Year 5 and Year 15. These images will be displayed at the meeting.

Further information required by the Planning Committee

Environment Agency considerations

Ground Water

Since the last meeting when this application was presented, the applicants have been in discussion with the Environment Agency about its objection based on water quality implications arising from the development. Within the submission of the additional information is a letter from the Environment Agency to the applicants' agents. In that letter the Agency states that it has received sufficient information in support of the applicant's application for an Environment Agency permit to be able to advise the applicant that if that same information were submitted to the County Planning Authority, the Agency would be in a position to withdraw its objection to the proposal.

The Environment Agency has confirmed to the County Planning Authority that it no longer objects to the development on the basis that any impact on ground waters can be controlled or mitigated. In the light of this the Environment Agency has withdrawn its previous objection to the development subject to the imposition of conditions to control surface water outfall from the site, and a condition that requires the development to be undertaken in accordance with the submitted Flood Risk Assessment. The letter also draws attention to the requirement to obtain a permit from the Environment Agency to cover issues such as noise, dust and odours before bringing the site into operation. The Environment Agency also notes that its consent is required to abstract water from the ground and for any discharges to watercourses. These latter three controls operate outside the remit of planning control.

This Environment Agency response confirms the applicants' view that the environmental permitting process should provide the Committee with the assurance that these issues will be controlled but not through the planning permission. If the Environment Agency issues a permit the Company would be answerable to the Environment Agency for any breach of the Permit should that be granted rather than this Council's Environmental Health Enforcement Protection Team.

Crisis Management Plan

The submitted Crisis Management Plan is available for inspection on the file. It will be noted that each area of potential emergency has been covered and a distinct line of responsibility identified. It covers areas such as fire, mechanical breakdown of plant and equipment, contamination of the digesters, disease outbreak and staff ill health amongst other issues. The applicants acknowledge that the document is not something that can be set in stone as is the case with all Health and Safety matters, procedures need to develop over time and in the light of experience and that is the intention with the Crisis Management Plan. The Environment Agency has also recognised this in its response to the County Planning Authority.

As with the ground water issue, the responsibility for ensuring the safe operation of the site lies with the Environment Agency through its Permitting process. The Company is

obliged to obtain a Permit prior to opening the facility and it can be closed by the Environment Agency if there is a failure to adhere to the requirements of the permit.

The Environmental Health Enforcement Manager has responded to the County Council and has sought the imposition of several conditions that amongst other things would secure the shut down of the facility in the event of an emergency at the site that exceeds the parameters set by the Environment Agency.

Other Issues

The Health Protection Agency (HPA) has submitted information to the County Planning Authority setting out its role in the Permitting Process operated by the Environment Agency. It advises that it has set parameters that require a recommended separation distance between houses and pig buildings. It states that it would review the proposals at Foston as a part of its role in the permitting process and advises the Environment Agency as to whether the measures proposed in the application would minimise or avoid a risk to human health [although members are reminded that this is not a material planning consideration].

Members may also be aware that Natural England raised an objection to the development. Additional information has been submitted to the County Planning Authority that has satisfied the Derbyshire Wildlife Trust. At the time this response was prepared, the County Planning Authority had not received a response from Natural England, any response that is received will be reported at the meeting if available.

Updated Planning Assessment

Members are referred to the Planning Assessment as reported to the 31 May 2011 meeting that should be read in conjunction with the following.

The applicants have addressed the issues that were raised by the Committee at the May meeting relating to crisis management and ground water. The Environment Agency is now satisfied on the ground water issue subject to the imposition of conditions. As stated above, the Environment Agency would be responsible through its permitting process for monitoring compliance with any permit that it may issue in respect of noise odour and other emissions and it will consult the HPA on all these matters prior to issuing a permit and other matters such as water abstraction and surface water discharge consent are also controlled by the Agency.

In the light of this the environmental impacts of the development are controlled via the Environment Agency and would not in those circumstances form a valid reason for this Authority to object to the development.

Pre-application discussions.

There were extensive discussions with the applicants prior to the submission of the previous planning application that was withdrawn. Arising from those discussions officers identified that any application would fall under the requirements of Schedule 1 of the Environmental Impact Regulations and given its open countryside location it would be for the applicants to justify that location. The significant issues that were identified related to noise, smell, access and impact on the highways, visual intrusion, flood risk, impact on the setting of the Foston Hall Listed building and the need to assess if there

were archaeological remains within the site. The applicants were also advised to consult the local community prior to making an application. The above information formed the basis of this Council's then Scoping Opinion in respect of the requirements of the Environmental Impact Assessment Regulations 2011 and the Screening Opinion that preceded the Scoping Opinion were both on the Planning Register prior to that application being withdrawn. It is considered that the current application is compliant with those Regulations.

Clearly smell was to be a crucial determining factor and the applicants were confident that it could be addressed. This odour reduction system is now proposed in the current planning application and is to be combined with the flushing system described towards the start of this report as the means by which odour reduction would be achieved at the application site.

The applicants have also introduced the flushing system at one of its existing farms in Staffordshire. Environment Health and Planning Officers have visited this site and it can be reported that in that location and with the numbers of pigs at that facility, it appeared that odours were considerably reduced by the flushing system.

The Development Plan

East Midlands Regional Plan

The policies of the East Midlands Regional Plan remain relevant to the consideration of the application but in the event that the Localism Bill is approved, the EMRP will cease to have effect. It will be for the County Council to decide the weight to be applied to the policies in the Regional Plan.

The South Derbyshire Local Plan

Environment Policies 1 & 5 – the issue here is whether the development can be justified in this countryside location. There is no doubt that the application will have a material impact on the character and appearance of the countryside. An assessment of the visual and landscape impact along with noise and odour implications are set out below in 'Material Planning Considerations'. The primary use of the site is as an agricultural business where a location in the countryside can be said to be necessary as locating a pig farm immediately adjacent to a town or village may not be acceptable. This site enjoys a reasonably remote location away from settlements but with excellent access to the trunk road network and a farm is a use normally found in the countryside. Whilst acknowledging the serious objections in terms of visual intrusion and landscape impact, the application site is considered to be well located in terms of its surroundings; being well screened from the south by existing plantations and having a well landscaped trunk road on its northern boundary. With the exception of the views set out below in Visual and Landscape Assessment, this existing screening helps to ensure that the farm buildings would not intrude unduly into the wider landscape. This screening also helps to visually separate the proposed use from the nearby Foston Hall Prison with its Grade II listed buildings. Accordingly the farm is considered acceptable in terms of the above policies. However, the determining factor will be whether the mitigation measures outlined in the planning application are sufficient to warrant a recommendation of 'No Objection' to the County Planning Authority.

Housing Policies 8 & 11 – if the development were permitted then the justification for the housing associated with the development has been confirmed as set out in the information supporting the application. If permitted the dwellings should be subject to an occupation condition similar to the agricultural occupancy condition but designed to reflect the mixed occupation of the proposed dwellings referred to in the supporting information. In addition the offer to demolish the existing houses on the Woodyard Lane site referred to in the application documents should be secured through either a Section 106 Agreement or a Unilateral Undertaking depending on the requirements for an agreement identified by the County Planning Authority as part of its consideration of the planning application.

Employment Policies 4, 5 & 8 – These policies contain a presumption against new employment development in the countryside except in locations on the edge of established settlements where a need is established. The exception is not applicable to this site. As stated above, the primary use of the site is considered to be large-scale agricultural development where a location in the countryside is acceptable in principle subject to the policy and material planning considerations set out in this report.

The anaerobic digester (AD) part of the application could be accommodated in a business park or industrial estate as a separate entity. However, this application must be judged on its own individual merits and it is the strong assertion of the applicants that the pig farm is reliant on the AD part of the application and vice versa; without one there would be no other part of the development. The AD plant is well related to the trunk road network and where there are proven flows of Green Waste currently using the road. The applicants assert that these sources could easily be diverted onto this site to assist with renewable energy generation. The County Planning Authority will have to assess whether this part of the proposal accords with its policies.

On the basis that the pig farm and AD elements are interlinked it is necessary to assess the visual, noise, traffic and odour impacts of this development before a determination as to the suitability can be made and following that a recommendation to the County Planning Authority on this Council's view on the planning application. These areas are considered in the following section of this report.

Waste Policies

Derbyshire County Council, as the waste planning authority, is responsible for assessing the application against the policies in the Derby and Derbyshire Joint Waste Disposal Local Plan. However, as stated above many of the criteria in that Plan are similar to those in the South Derbyshire Local Plan relating to the control of development in the countryside and will be a determining factor for the County Planning Authority.

Material Planning Considerations

Government Advice on all issues - PPS & PPG

There is a wide presumption against unwarranted development in the countryside – this is more so in areas of green belt or SSSI. However this site has no special protection and it is for the applicant to justify the countryside location. The applicant has submitted a justification for the use to be located in the countryside and refers to various Government policy and advice documents to support that contention. In particular the

need for a diverse rural economy that reflects modern farming practices and minimises visual intrusion. The application is accompanied by information that addresses the issues identified in the various areas of Government advice such as PPG 24 – Planning and Noise, PPS 25 – Development and Flood Risk and particular weight is given to PPS 10 and 22, which deal with Sustainable waste disposal and Renewable Energy. The issue to be considered is if the benefits arising from the recycling of pig waste and other green waste are so strong as to allow for the formation of a new large-scale farming unit in the countryside. However, there may be an overriding factor in terms of other impacts such as visual intrusion that may outweigh that presumption in favour of addressing waste recycling and renewable energy. These issues are considered further under separate headings below.

Visual impact

This is the most significant potential impact arising from this development. The proposal has been carefully assessed in this regard and three main areas have been identified as locations where the development would be visible in the wider landscape. These are at high ground between Tutbury and Hanbury, from the A50 heading east from Sudbury and on footbridge over the A50 at Foston. Below is a discussion of the impacts on these three areas, followed by an assessment of the more localised visual impacts.

The high ground between Tutbury and Hanbury – Hanbury village lies almost directly south of application site and commands views over the Dove Valley and the development contained within it. Photographs have been taken from the churchyard in the village but there may be other high spots along the ridge from which the site would be visible. From Hanbury there are views of the site but these are seen in the context of other major development in the Dove Valley such as Dove Valley Park and the Cranberry Foods site at Scropton. The site itself is also seen in the context of substantial areas of tree plantation that would assist in mitigating the views of this substantial development from the Church Yard and wider village at Hanbury. These are distant views with the main pig buildings in the foreground and the service buildings and other structures in the background, seen against the background of the landscaping along that part of the A50. The site would be seen as a significant addition in the landscape of the Dove Valley but because of the distance from the ridgeline to the site, the sensitivity of this impact is considered low.

The A50 heading east from Sudbury, including the footpath adjacent to the A50 – the photographs are taken from the lay by on the A50 on its northern side. These illustrate that there would be views from the A50 of the service building with its 3 x 10m high associated exhaust stacks with some views of the feed mill and other smaller buildings. This is perhaps the most prominent view of the site. The application plans have proposed landscaping in the form of bunds and tree planting in the northwest corner of the site and along the western boundary. In addition the view must be assessed against the Guidelines for Landscape and Visual Impact Assessment (GLVIA) and the other guidance referred to above. The first is a standard methodology that has been used at Appeal Inquiries to assist with assessing landscape impact. In that document, whilst landscape impact can be seen as significant, the viewpoint from the road is seen as having low visual sensitivity because that view is seen from a trunk road. For the purposes of this Planning Assessment the methodology in the Landscape Assessment document is accepted and from the A50 the view is deemed to be significant but its sensitivity is low. When this is combined with the mitigation measures proposed in the form of the landscaped bunds it is considered that the visual impact of the development

would be mitigated to a point where refusal of the application on visual impact grounds would not be sustainable at appeal.

The footbridge over the A50 at Foston – photographs have been taken from the footbridge. The main view of the site is from the bridge itself where there is a view of the site along the old Uttoxeter Road. This view would take in the tanks and silos, the service building and the access to the site. As with the above assessment this would be a transient view of the site by users of the footbridge. Whilst the impact is significant from the footbridge the sensitivity of the view is low.

Local Visual Impact

Visual Impact on Houses; Maidensley Farm and Woodland Drive – These properties are in closest proximity to the site. The houses are referred to and assessed in the application documents. The site would be visible from the upper floors of the Maidensley Farm house; ground floor views and views from habitable room windows on the barn conversions would be screened both by buildings in the case of Maidensley Farm and the existing hedge on the boundary of the application site in the case of the barn conversions. The application plans propose a 30m wide by 2m high landscape bund along the boundary to the Maidensley Farm complex and this is considered to have the potential to mitigate views that may be possible through the existing boundary hedge. The orientation of the houses on Woodland Drive is such that there would be no views into the site from the majority of those houses from main habitable room windows. The application proposes that there be significant tree planting along the eastern boundary of the site, in part to screen the development and in part to mitigate potential noise from the site. Due to the proximity of the houses at Maidensley Farm and Woodland Drive the proposal could have an adverse visual impact, however, for the reasons set out above, the development has sufficient mitigation measures proposed to minimise that impact.

Visual Impact on Foston & Scropton Villages and their hinterland – Due to the presence of substantial areas of trees, hedges and landscaping to the A50, there is no direct visual impact arising from the development at either of these villages. Members will be aware of isolated properties to the North of the A50 but from these houses, the landscaping associated with the A50 provides ample screening of the proposed site. There will probably be views of the 10m high flues and possibly the roof of the services building that is some 11m to the ridge. None of these views are considered significant and would not constitute grounds for refusing planning permission.

Visual Impact on Foston Hall Prison – The proposed landscape master plan would mitigate any visual impact on the setting of the listed building. The prison site has already degraded the immediate setting of the building by the erection of security fences and the provision of additional temporary prison buildings. These are all demountable and it is possible that the setting of the listed hall and stables could be restored should the prison be closed. However there does not appear to be any prospect of this happening and this application should be judged on its merits at the time of the application.

Overall Conclusion on Visual Impacts

It is considered that the viewpoints and local impacts identified above are not sufficient on their own to warrant refusing planning permission. They represent views of low sensitivity at the closest points to the site or are distant views of the site in the context of

a valley landscape that is already degraded by other development. The impact on local houses can be either largely mitigated or houses have no direct views to the built development on the site. Provided the development is subject to conditions requiring the implementation of the Landscape Master Plan, following the approval of the precise details of that plan, then it is considered that the development is in accordance with the requirements of Environment Policies 1 & 5 of the adopted South Derbyshire Local Plan in terms of the agricultural buildings.

Odour and Dust Issues

The overall methodology for assessing the odour impacts has been accepted by the Environmental Health Enforcement Manager. The conclusion of the air quality assessment is that the submitted report adequately addresses the odour issues at all the potential receptors identified in the report in principle. None of the houses identified, including those on Woodland Drive and Maidensley Farm, are sufficiently close to be affected by odours once the air from all buildings on the site has been treated by the methods described above in the 'Applicants Supporting Information'. Subject to these being implemented should planning permission being granted, the Environmental Health Enforcement Manager has no objection to the development.

The AD service building would appear as a large agricultural building, similar in size to the composting building at Egginton Common. That too has an eaves height that allows lorries to tip and it has sliding doors that seal the building prior to tipping. The building also operates under negative pressure and there is a carbon filter system in operation. There are houses in close proximity to that building as occurs on this application site. According to the Environmental Health Enforcement Manager's records there have been no reports of odour complaints arising from that building.

The proposed filter system at the current application site on the AD Service building is much more up to date in that particulates within the building would be substantially removed prior to discharge to the atmosphere through the carbon filter.

The installation of the odour and dust control systems is considered essential if the planning application were granted permission. The Environmental Health Enforcement Manager has requested that the County Planning Authority impose conditions to ensure that these measures are put in place prior to the commencement of the operation of the building.

Noise Issues

The application is accompanied by a Noise Report that addresses the issue of noise in terms of impact on local dwellings arising from the operation of the site including the loading of pigs prior to transport for slaughter. In terms of the general operation of the site, the buildings and other machinery can be constructed to ensure that noise impacts are minimised and mitigated. In loading pigs, a mitigation measure is proposed in the form of a 4.0m high fence around the loading area to form a solid barrier around it.

The Environmental Health Enforcement Manager advises that the noise generated by the development is unlikely to be greater than that occurring from the A50 and the supporting information accompanying the application supports this point of view.

The Environmental Health Enforcement Manager states that subject to the implementation of the mitigation measures identified in the Noise Report at paragraphs 5.1 to 5.10, it is unlikely that any concerns about noise would be sufficient to warrant objection to the development

Updated Overall Conclusion

This is clearly a very contentious planning application. The issues are far reaching in that there has never been a planning application for a pig farm of this scale submitted in this country although it is understood that there is a farm in Yorkshire that has up to 3,500 breeding sows. If permitted, the development would be a first in terms of intensive farming because of its scale and the associated reuse of waste material to produce energy, heat and crops to serve the whole food manufacturing cycle proposed in the application. Having taken all the submitted information, responses from consultees and examined all the policy considerations as set out above, the conclusion is that whilst this is a substantial development in the countryside, the primary use of the site is agricultural and as such a location in the countryside can be acceptable.

The AD and composting operation, including the containers and silos to produce methane and fertiliser is a use that could potentially be provided at an industrial site rather than in the countryside location. However, if members are minded to accept that the pig farm can reasonably be accepted in this location, then there is such a close synergy between the two uses that the AD operation should be accepted as well. This is as the case for them to be located together has, it is considered, been made. Given the level of proposed odour control and exhaust air filtration for this aspect of the development and the overall appearance as a part of a larger farm complex, the AD complex is considered to conform to Development Plan policies subject to the recommended conditions.

Recommendation

That Derbyshire County Planning Authority be advised that subject to the signing of a Section 106 Agreement to secure the demolition of the houses at the existing pig farm on Wood Yard Lane Church Broughton and the payment of any contributions for matters identified by other consultees, then South Derbyshire District Council has **NO OBJECTION** to the proposed development subject to the following conditions:

1. The occupation of the dwellings shall be limited to the family and/or dependents of a person employed, or last employed, wholly or mainly, in the operation of the pig farm hereby permitted or in forestry.

Reason: The site is within open countryside where the Development Plan provides that development shall be confined within the limits of an existing town or village, except where there are other overriding reasons justify a departure from that policy. The Local Planning Authority is concerned to ensure that such workers' dwellings are maintained available to meet the needs of the locality and to avoid proliferation of dwellings in the countryside.

2. Before any building is brought into use the odour control measures assessed in the report by the SLR Odour Impact Assessment dated March 2011 shall be installed in accordance with manufacturers instruction.

Reason: To ensure the Odour Control measures set out in the EIA are implemented prior to the occupation of any building on the site.

3. Noise mitigation measures shall be implemented in accordance with the noise control recommendations set out in Paragraphs 5.1 - 5.10 (shown as 5.1 - 5.7 and the 5.1 - 5.3 on pages 9 & 10 of the Hepworths Acoustics report dated March 2011) and stated as being required at Paragraph 7.6 in the same document prior to the first use of any of the buildings hereby permitted.

Reason: In order to ensure that the site operates in accordance with the mitigation measures proposed in the submitted EIA.

4. The site, its plant and equipment shall be operated and maintained strictly in accordance with manufacturers requirements. In the event that there is a breakdown of noise or odour control measures, the site shall be prepared for shutdown in accordance with a timetable that has been submitted to and approved in writing by the County Planning Authority. For the avoidance of doubt the breakdown of the odour control system will have been considered to have occurred if odours at the site boundary exceed 3 ouE/m³ as a 98th percentile of hourly means at the site boundary being the measure described in Section 3.1 of the Odour Impact Assessment prepared by SLR in its report dated March 2011.

Reason: In order to ensure that the site operates in accordance with the mitigation measures proposed in the submitted EIA.

5. There shall be no loading of animals at any time outside the hours of 0700 and 1000 on any day as set out in paragraph 5.6 of the report prepared by Hepworths Acoustics dated March 2011.

Reason: In order to ensure that the site operates in accordance with the mitigation measures proposed in the submitted EIA.

6. Before any building is brought into use the landscape bunds and noise, security fence shall be formed and constructed in accordance with detailed drawings that shall have received the prior written approval of the County Planning Authority. The planting of the landscape bunds shall be undertaken in accordance with a detailed planting plan submitted to and approved in writing by the County Planning Authority, using the species identified by FCPR in its Landscape and Visual Assessment dated March 2001 at Figure 11 in Appendix 8 to the submitted EIA. The landscaping bunds, planting and fences shall thereafter be maintained in accordance with a Landscape Management Plan that shall be submitted to and approved in writing by the County Planning Authority.

Reason: In order to ensure that the site operates in accordance with the mitigation measures proposed in the submitted EIA.

7. Control of the hours of operation during construction 0730 - 1830 Monday to Friday, 0730 - 1300 on Saturday with no construction activities on Sunday Bank or Public Holidays.

Reason: In the interests of the occupiers of nearby houses.

8. The imposition of such dust and mud on road conditions as deemed necessary by the County Planning Authority in accordance with its standard requirements for waste disposal sites both during construction and during the operation of the site if permitted.

Reason: In the interests of the amenity of the occupiers of nearby houses.

Item **1.8**

Reg. No. **9/2011/0484/MR**

Applicant:

David Wilson Homes Ltd
North Midlands
2 Orchard Place
Nottingham Business Park
Nottingham

Agent:

David Wilson Homes Ltd
North Midlands
2 Orchard Place
Nottingham Business Park
Nottingham

Proposal: **Application for planning permission to extend the time
limit for implementation of outline planning permission
9/2007/0020 (Appeal ref: APP/F1040/A/07/2038653):
Proposed residential development, community
building, roads and open space on land at Stenson
Fields Farm Stenson Road Stenson Fields Sinfen**

Ward: **STENSON**

Valid Date: **15/06/2011**

Reason for committee determination

This is a major application with more than two objections.

Site Description

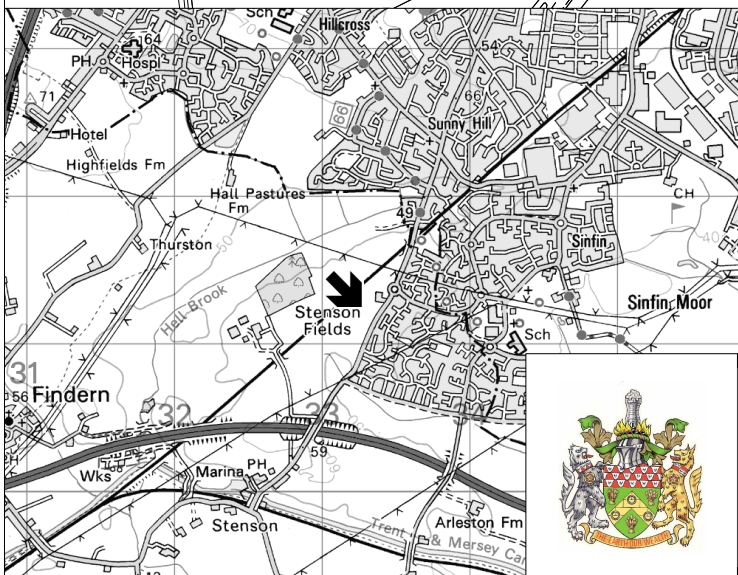
The site is triangular shaped piece of land amounting to some 17 ha, situated between Stenson Road and the railway line to the west. It contains various trees and hedgerows but is mainly cultivated for agriculture.

Proposal

The application seeks to extend the existing outline permission 9/2007/0020. That planning application was submitted in outline with all matters reserved for future determination. The application form indicates that up to 500 dwellings could be accommodated on the site. The Design and Access Statement accompanying the planning application sets out the design ethos for the proposed development and incorporates an illustrative master plan. The development seeks to integrate physically with residential development and wide-ranging services and facilities within the existing Stenson Fields development and the Sinfen District Centre to the east of Stenson Road. The development would be served by two principal points of access with additional emergency provision. The development would comprise predominantly family housing including the provision of affordable housing within the site. Provision is made for a site for a community facility on or close to the Stenson Road frontage. The nature of the facility has yet to be defined.

9/2011/0484 - Land at Stenson Fields Farm, Stenson Road, Stenson Fields, Sinfín, Derby DE23 1LG

THE SITE



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South Derbyshire District Council. LA 100019461. 2010

Applicants' supporting information

- The procedure to extend the time to commence development was introduced by the Government to acknowledge the difficulty in delivering new housing in the current economic climate. Such an approach is entirely appropriate at Stenson Fields, which was granted permission in January 2009 following a 'conjoined' public inquiry in 2007 and 2008. The site remains suitable and available for residential development, having been rigorously tested through the appeal process, and there is an urgent need for a longer period of time in which to commence development following economic recovery.
- No other conditions on the existing permission are to be varied and the existing Section 106 Agreement would be carried forward.
- The adopted Regional Plan requires 12000 dwellings to be provided in South Derbyshire between 2006 and 2026, 6400 of which should be in the South Derbyshire part of the Principal Urban Area (PUA) i.e. "contiguous built up area" extending from the City. The need for a continuous 5 years supply remains a key imperative of PPS3. The Coalition Government, in its Ministerial Statement of 23 March 2011, looks to local planning authorities to support enterprise and facilitate housing.
- Environmental considerations were tested through the inquiry process and ecological matters have been updated for this application. There have been no changes to environmental policy, nor environmental designation affecting the site.
- The Reptile Survey concludes that a reptile population is extremely unlikely and no further survey work or mitigation is considered necessary.
- The extended Phase 1 Habitats Survey addresses various species that could use the site. It concludes that there would be negligible risk to great crested newts and recommends enhancements to the dry pond on the site. Some of the trees on the site could support roosting bats. Further surveys would be required if any of these are to be felled. Existing hedges should be retained for foraging bats - the railway embankment is particularly important as a local wildlife corridor and recommendations are made about new planting to encourage bat prey species. General recommendations are made to minimise risk to wildlife during development.

Planning History

The existing permission 9/2007/0020 was granted by the Secretary of State on 26 January 2009 and remains extant (reserved matters to be submitted by 26 January 2012).

Responses to Consultations

The Highway Authority, Highways Agency, Severn Trent Water Ltd, Development Control Archaeologist, Derby City PCT and Derbyshire Wildlife Trust have no objection in principle.

Responses to Publicity

Four letters have been received objection as follows:

- a) There would be an increase in accidents at the Stenson Road/Pilgrims Way junction.
- b) Open views would be lost.
- c) There would be disruption by building works.
- d) The local roads are inadequate for the resultant increase in traffic.
- e) Schools, medical, sports and community facilities are inadequate.
- f) There would be increased pressure on policing.
- g) Bus services have been cut since the original grant of permission.

Development Plan Policies

The relevant policies are:

South Derbyshire Local Plan – Transport Policy 6, Environment Policy 11 and Environment Policy 14

East Midlands Regional Plan Policies 1, 2, 3, 12, 14, 26, 35, 39, 44, Three Cities SRS 3.

National Guidance

PPS1, PPS3, PPS5, PPS7, PPS9, PPG13 and PPS17.

Planning Considerations

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

- Whether the proposal still complies with the relevant policies of the Development Plan, and whether, since the Secretary of State's decision, there have been any material changes in circumstances to warrant withholding an extension of time to the existing permission.
- Section 106 Agreement

Planning Assessment

It should be noted that since the Secretary of State's (SoS) decision in January 2009, the development plan for the purposes of the Act, as well as national planning policies, remain largely unchanged. The minor changes to PPS3 in June 2010 do not materially affect the outcome of this decision.

At the time of the SoS decision, the East Midlands RSS was close to formal adoption and was at a very advanced stage, and consequently its adopted version replicated the same drafting of policies considered by her in making the appeal decision. The RSS remains in force albeit that the Government's intention to withdraw it is a material consideration. However as the Localism Bill

still has some way to progress through Parliament, and thus onto the statute books, limited weight can be given to the revocation of the RSS at this particular point in time and it continues to form part of the development plan by which this application must be judged.

The updated habitats surveys have not revealed any material change in circumstances.

PPS5 is relevant to the extent that the recommended condition on archaeology is updated to take account of the latest advice.

Therefore, in essence, nothing of substance has changed since the appeal decision, and the application proposals remain in full accordance with the development plan in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. There are no material considerations that indicate otherwise.

Although the proposed development area falls within South Derbyshire District Council it lies alongside the City boundary. Therefore, the policies applied to the neighbouring land by the City Council within the "*City of Derby Local Plan Review*" (Adopted on the 25th January 2006) remain pertinent. It is considered that the development proposals at Stenson Fields are not in conflict with the aims of the City of Derby Local Plan Review (2006), as also concluded by the Secretary of State.

No change is proposed to the existing Section 106 Agreement, which includes the provision of a community facilities scheme on the site. The agreement will be carried forward to the extended permission by way of a unilateral undertaking by the applicant.

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

Recommendation

Subject to the applicant making an undertaking under Section 106 to apply the original Section 106 Agreement in equal terms to the extended permission, **GRANT** permission subject to the following conditions:

1. a) The development hereby permitted within the land edged red, on the submitted Location Plan attached to application Ref. 9/2011/0484 shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

b) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.

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

2. Approval of the details of the layout, scale and appearance of any buildings, the means of access to and within the site and landscaping of the site (hereinafter called "the reserved matters") for each phase of the development shall be

obtained from the Local Planning Authority in writing before any development is commenced in that phase. Plans and particulars of the reserved matters for each phase of the development shall be submitted in writing to the Local Planning Authority and the development of each phase shall be carried out as approved.

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

3. The reserved matters submitted in accordance with condition 3 and details submitted in accordance with any other condition of this planning permission shall accord with the principles outlined in the master plan, drawing number 4865RC051007.

Reason: To ensure that sustainable urban design is achieved in accordance with PPS1 and PPS3.

4. No development shall commence until a phasing plan and programme in respect of the phased delivery of the development has been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the phasing plan and programme unless otherwise varied with the written agreement of the Local Planning Authority.

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

5. No development of any phase shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved in accordance with the agreed phasing plan. These details shall include trees to be retained showing their species, spread and maturity; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration.

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

6. Soft landscape works shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation programme.

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

7. All hard and soft landscape works shall be carried out in accordance with the approved phasing plan and details and finished not later than the first planting season following completion of the relevant phase of the development.

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

8. A landscape management plan, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority as

part of the reserved matters submission in accordance with conditions 2 and 6. The landscape management plan shall be implemented as approved.

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

9. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved in writing by the Local Planning Authority.

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

10. None of the existing trees or hedgerows indicated as existing on the master plan drawing number 4865RC051007 shall be cut down, uprooted or destroyed, nor shall be topped or lopped without the prior written approval of the Local Planning Authority. If any of the existing trees or hedgerows to be retained are removed or, uprooted or destroyed or dies, a replacement shall be planted in the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

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

11. No site clearance works or development of a phase shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2005.

No site clearance works or development of any phase shall be commenced in the vicinity of the protected tree or hedgerow until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
 - (ii) No material or plant shall be stored;
 - (iii) No buildings or temporary buildings shall be erected or stationed;
 - (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
 - (v) No drain runs or other trenches shall be dug or otherwise created;
- without the prior written consent of the Local Planning Authority.

Reason: To ensure that tree and hedge features are adequately protected.

12. Prior to the commencement of development details of a programme of further survey work relating to great crested newts, bats, breeding birds, slow worm, common lizard and grass snakes shall first be submitted to and approved in writing by the Local Planning Authority. Details of any required conservation measures and proposed habitats, including implementation, management and maintenance proposals shall be included in the report and the development implemented in accordance with the approved details.

Reason: To ensure protection of ecological interests.

13. No development of any phase shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected within that phase. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

14. Prior to the commencement of development details of a 1.8 metre high boundary fence to be provided adjacent to the existing railway boundary shall be submitted to and approved in writing by the Local Planning Authority. The fence shall be provided in accordance with the approved details prior to the development of the site and subsequently maintained thereafter.

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

15. Prior to the commencement of the development hereby permitted, a scheme for the disposal of surface water from the site shall be submitted to and approved in writing by the Local Planning Authority. It shall not be limited to surface water produced when the development is complete, but will include consideration of any surface or ground water disposal necessary during construction activities. Such a scheme shall adopt sustainable drainage principles in accordance with the principles of sustainable drainage systems set out in Appendix F of PPS25 and shall not result in an increase in the rate and/or volume of surface water discharge to the local land drainage system. The submitted details of the sustainable drainage system to be implemented shall:

(i) Provide information about the design, storm, period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving ground water and/or surface waters;

(ii) Provide details of the methods employed to prevent the risk of pollutants discharging into the watercourses, land drains, or sewer during the period of construction;

(iii) Specify the responsibilities of each party for the implementation of the sustainable drainage scheme, together with a timetable for its implementation;

(iv) Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall be implemented, maintained and managed in accordance with the approved details.

Reason: In the interests of flood protection.

16. No phase of the development shall commence until surface water drainage details in accordance with the approved drainage strategy for that phase have been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before any dwelling is first occupied.

Reason: In the interests of flood protection.

17. No phase of the development shall take place until details of the proposed means of disposal of foul sewage have been submitted to and approved in writing by the Local Planning Authority. All foul water shall be directed into the main foul sewerage system. The development shall be carried out in accordance with the approved details.

Reason: In the interests of pollution control.

18. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

Reason: In the interests of pollution control.

19. No development of any phase shall take place until details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings within that phase have been submitted to and approved in writing by the Local Planning Authority. The development of each phase shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

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

20. Prior to the first occupation of any dwelling on the site the estate carriageways and footways between the dwelling and the adopted highway shall be constructed to minimum base level together with highway surface water drainage and street lighting, in accordance with the details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

21. The internal layout of the site shall be designed in accordance with the guidance contained in the "Manual for Streets" document issued by the Departments for Transport and Communities and Local Government, March 2007, or an appropriate successor document.

Reason: In the interests of highway safety.

22. Before the commencement of development of any phase, space shall be provided within the curtilage of the site for site accommodation, storage of plant and materials, parking and manoeuvring for employee and visitor vehicles, loading and unloading and manoeuvring of lorries in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The facilities shall be retained in accordance with the approved scheme throughout the construction period.

Reason: In the interests of highway safety.

23. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interests of highway safety.

24. No phase of the development shall commence until details of the design and phasing of the off-site highway works as indicatively shown on drawings A031824-T-12a, 206756-103 and A031824-T-14 have been submitted to and

approved in writing by the Local Planning Authority. No phase of the development shall then be occupied until the off-site highway works have been laid out and constructed in accordance with the approved details and phasing. For the avoidance of doubt the developer will be required to enter into a S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

25. No development shall be commenced until detailed designs for the accesses between the site and Stenson Road, and for the permanent closure of redundant accesses, have been submitted to and approved in writing by the Local Planning Authority. Proposals for implementation of the approved access arrangements shall be submitted as part of the phasing details required under Condition 5.

Reason: In the interests of highway safety.

26. No development shall be commenced until detailed designs for a scheme for a 2.0 metre footway along the Stenson Road frontage of the site has been submitted to and approved in writing by the Local Planning Authority. Proposals for implementation of the approved design shall be submitted as part of the phasing details required under Condition 5.

Reason: In the interests of highway safety.

27. No development shall be commenced until a detailed design for a scheme for street lighting along the Stenson Road frontage of the site has been submitted to and approved in writing by the Local Planning Authority. Proposals for implementation of the approved design shall be submitted as part of the phasing details required under Condition 4.

Reason: In the interests of highway safety.

28. There shall be no direct access between any dwellings and Stenson Road unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

29. No development within any phase shall take place until there has been submitted to, and approved in writing by the Local Planning Authority, an initial design stage assessment by an accredited assessor for The Code for Sustainable Homes and an accompanying interim certificate stating that the dwellings within the submitted phase achieve either Code Level 3 or the then-required Code Level rating, whichever is the higher. The development shall be carried out in accordance with the certificated design.

Reason: In the interests of energy efficiency.

30. Before the development hereby permitted is begun a scheme for generating 10% (or a higher percentage) of the predicted energy requirement of the development from on-site renewable sources shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is first occupied and thereafter be maintained so that it provides the required level of generation.

Reason: In the interests of energy efficiency.

31. No development of a particular phase shall commence before details of the finished floor levels of each building has first been submitted to and approved in

writing by the Local Planning Authority. The buildings within that phase shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and residential amenity.

32. No development of any phase shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction of the development. The approved measures shall be implemented throughout the construction period.

Reason: To protect the amenities of existing residents in the locality.

33. During the period of construction of any phase of the development which abuts any occupied dwelling within the site, no construction work shall take place outside the following times: 0730 - 1900 hours Monday to Friday and 0730 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of existing residents in the locality.

34. No development shall be commenced until a detailed design scheme for noise attenuation in respect of the dwellings adjacent to Stenson Road, community facility and operational railway line has been submitted to and approved in writing by the Local Planning Authority; all works which form part of the scheme shall be completed in accordance with the approved details prior to the first occupation of the noise-sensitive dwellings and retained and maintained at all times thereafter.

Reason: In the interests of the aural amenities of incoming residents.

35. 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 the fieldwork element of the scheme is completed to the written satisfaction of the local planning authority, or in accordance with any alternative schedule as may be agreed in writing with the local planning authority. The scheme shall include an assessment of significance and research questions; and

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

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

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

Attention is drawn to the letter dated 31 May 2007 which was submitted to the Inquiry by East Midlands Airport (Inquiry document WR10), drawing attention to current and proposed future activities of the Airport (IR33).

Item **2.1**

Reg. No. **9/2011/0723/FM**

Applicant:

MR STUART TURNER
82 MAIN STREET
ETWALL
DERBY
DERBY

Agent:

MR WILLIAM ROYALL
19 FIELD LANE
BURTON UPON TRENT

Proposal: **THE ERECTION OF THREE DWELLINGS ON THE SITE OF THE
EXISTING TENNIS COURT AT ETWALL LAWN 82 MAIN STREET
ETWALL DERBY**

Ward: **ETWALL**

Valid Date: **25/08/2011**

Members will recall deferring this item to enable the committee to visit the site.

Reason for committee determination

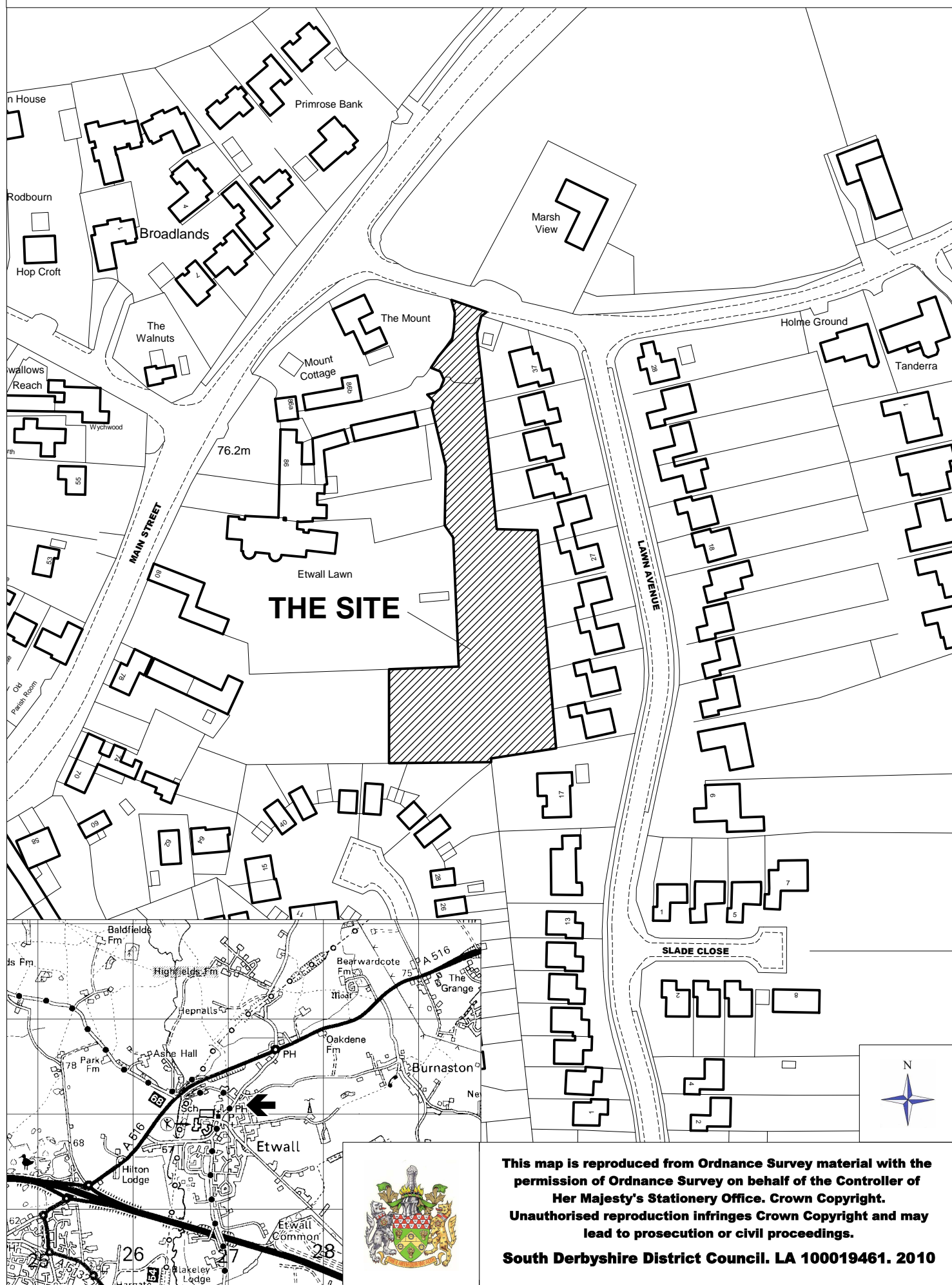
The application is brought to Committee at the request of Councillor Lemmon on the basis that local concern has been expressed about a particular issue and the Committee should consider unusual site circumstances.

Site Description

The site lies outside the Etwall Conservation Area, (with the exception of part of plot 3) but within the wider confines of Etwall Lawn, a Grade II listed building. The east boundary of the Conservation Area lies within the Etwall Lawns curtilage and is defined by the ha-ha that forms a physical if not a readily more apparent boundary. The fences on the Park Way boundary are the south boundary of the Conservation Area. The position of the Conservation Area boundary will be illustrated at the meeting. To the south and east the boundaries of the application site are 1.8 - 2.0 metre high fences that are the rear fences to houses on Lawn Avenue and Park Way. There are trees on these boundaries that are the subject of a Tree Preservation Order. A tennis court enclosed by the usual fencing currently occupies a significant part of the application site. Those areas outside the tennis court are grass with the exception of the areas formed by the trees and shrubs close to the site boundaries

Proposal

The application proposes the erection of the 3 dwellings served by the existing access to Etwall Lawn from Burnaston Lane. Most of the shrubs on the site boundaries would be removed but the trees are shown retained. The trees to be felled within the site



comprise mainly Lawson Cypress that appear to have been originally planted as internal hedges.

In order to try and address some of the objections raised by Committee in refusing a previous planning application, this application proposes that the finished floor levels of the new houses be set at a lower level than was previously proposed to reduce the impact of the adjacent houses.

Applicants' supporting information

The applicants have undertaken various pre-application discussions with officers and sought to address some of the design concerns that arose from the refusal of the application made in 2009 (see below) – in those meetings officers indicated that it would be difficult to overcome the matters of principle raised in the previous decision and that a recommendation of refusal of any application was likely whatever changes were to be made to the design or location of the dwellings. The following points are made by the applicant to address that potential recommendation.

- Circular 03/09 allows officers to maintain a professional recommendation even if a Committee disagrees with that professional view.
- The reason in the previous decision did not reflect the conclusions on openness put before the Planning Committee. The officer concluded that previous development to the park land had eroded the setting of Etwall Lawn and further development would not be as harmful to the setting as the original setting had been retained.
- The garden to the west of the development site would be retained as a setting for Etwall Lawn and that setting is adequately defined by the boundary of the Conservation Area. Historic mapping suggests that the application site was separated from Etwall Lawn for substantial periods of the 18th and 19th century. The part of the Conservation Area affected by the proposal is minimal and has no impact on the setting of the listed building. The site lies in the defined settlement framework and is therefore acceptable in principle and as such the officer recommendation should be consistent with that made in response to application 9/2009/0986.
- The draft National Planning Policy Framework is another consideration in support of a favourable recommendation. It promotes sustainable development and sets out guiding principles to be followed by the Local Planning Authority's in determining applications. It is accepted that the consultation period does not expire until October this year, but it is unlikely that it will differ substantially from its draft form.
- This states that the Local Planning Authority's should determine development proposals that accord with the development plan without undue delay. The case in favour of the development and statutory plans is made in the Design and Access statement (see below). Reference is also made to the part of the framework that states that the Government is committed to increasing the housing supply and everyone should be given the opportunity to live in a wide choice of well-designed quality homes.
- The three homes lie within the settlement framework, are well designed and would provide a wider choice of houses within the village.
- Accordingly the officer recommendation should be consistent with that made when the previous application was referred to the Planning Committee.

A Design and Access statement supports the application and an Arboricultural Impact Assessment and a first phase Habitat assessment of the trees on the site together with a Heritage Statement have also been submitted, these are available for inspection on the file. These can be summarised as follows:

Design and Access statement:

- The dwellings have been located beyond the ha-ha and the rose garden to maximise the screening effect and distance from Etwall Lawn. It is contended that the proposal would not affect the setting of the Grade II listed building.
- The development site is screened from houses on Lawn Avenue and Park Way by boundary hedges and fences as well as mature trees.
- The site lies within the built confines of the settlement and generally accords with the provisions of Housing Policy 5.
- The minimum separation distances between existing and proposed dwellings have either been met or exceeded and as such the development accords with Housing Policy 11 of the Local Plan.
- The development would have minimal impact on the Conservation Area. There are limited or no public views of the application site; all the important trees in the site would be preserved; the gardens to Etwall Lawn would be retained to the west of the ha-ha that marks the east boundary of the conservation area. The area containing the tennis court is visually separate from the listed building.
- There is no historic townscape to guide this development and it would have little or no impact on Main Street and would follow the pattern of housing established on Lawn Avenue and the reduction to three dwellings would give a more open feel to the development. The proposal therefore accords with the provisions of Environment Policy 12.
- Environment Policy 13 deals with development that affects the setting of Listed Buildings. The impact of the proposed development would have minimal impact on Etwall Lawn and the development is considered to accord with this policy. It is contended that the proposal respects the setting of Etwall Lawn and would bring some underused land back into productive use in accordance with the principles of sustainable development. The proposal would make a valuable contribution to the local distinctiveness of the area in accordance with the requirements of Policy HE7.4 of PPS 5.
- The setting of Etwall Lawn is very important - the lawns to the south of the ha-ha are important as they give a sense of scale to the property and this is backed by the mature trees that also provide a sense of enclosure to the site.
- The houses proposed would all have the same design with 4 bedrooms would be accessed from the existing drive to Etwall Lawn from Burnaston Lane. None of the proposed houses have windows looking towards either Lawn Avenue or Park Way.
- Overlooking has been minimised by setting the houses as far from the boundaries of existing houses as possible but in excess of the distance required by the Housing Layout and Design SPG and also setting the houses as low as possible within the site.
- The design of the dwellings picks up on historic gable widths with roof space utilised to form part of the living accommodation. This has the effect of reducing ridge and eaves heights on the proposed dwellings.

- Materials are proposed that reflect the character of the Conservation Area and the design of the dwellings have been amended from that previously refused to have a more traditional appearance. The buildings would be constructed to high environmental standards.
- Additional tree planting is proposed within the site to enhance existing screening particularly towards Etwall Lawn.

Tree Survey:

- The submitted tree survey notes the required root protection zone for each of the trees in the vicinity of the application site; the dwellings have been sited to take account of the root protection zones.
- None of the trees shown as retained within the site would be lost as a result of the development

Bat Survey:

- This concludes that whilst some of the trees provide a potential for supporting bats their rating is low and works in the vicinity of those trees should be avoided, it is unlikely that an ecologist's input would be required. To avoid any disturbance night work on the site should be avoided, no lights and construction traffic in the vicinity of the site should be prohibited. If any of the trees identified in the report are to be felled then further survey work would be required and the advice of a licensed bat ecologist sought. None of the trees identified in the report are to be affected by the development, but three of the identified trees lie in the vicinity of the access to the site.

The application is in accordance with the recently published Draft National Planning Policy Framework and represents a material change in planning policy since the last application was refused and given the above arguments in favour of the development promoted on behalf of the applicants it is contended that planning permission should be granted.

Planning History

Permission for a dwelling on the site of the tennis court was granted in the early 1970s subject to an agricultural worker condition. A further application for a dwelling in 1979 was refused planning permission on the basis that the dwelling would adversely affect the setting of the listed building, a redundant 17th century cottage could provide separate living accommodation, and the access was over-long resulting in excessive man-carry distances.

During the 1980's there were various applications for extensions and alterations to Etwall Lawn. There was an application in 1991 for the conversion of the 17th century cottage in the grounds of Etwall Lawn that was granted permission.

In the later 1990's various works in the grounds to Etwall Lawn were permitted including the erection of the access gates referred to above. The last application in the 1990's was for the erection of the Orangery that is now in place.

An application for 4 dwellings was refused planning permission in 2010 and a subsequent application for 3 dwellings of the type now proposed, was withdrawn earlier this year to allow for additional works to be undertaken prior to its resubmission in this form.

Responses to Consultations

Etwall Parish Council supports the objection of two individuals referred to in their response and objects to the development for the following reasons:

- a) The exit/entrance onto Burnaston Lane is inadequate for any increase in traffic using it and would need to be improved at cost to any developer.
- b) The proposed development abuts the village conservation area and is totally intrusive into it. The trees that mark the boundary of Etwall Lawn are an essential part of the site, separating it from the modern development area and it is perhaps a mistake that the entire curtilage is not within the conservation area. At all events, this intrusion should be stopped on heritage grounds.
- c) The proposed dwellings are very close to the boundary of houses on Etwall Lawn that they would adversely affect the character of those houses)

The County Highway Authority has objected to the development on the basis that the development as submitted makes no provision for an adequate visibility splay between the site access and the junction of Burnaston Lane and Main Street.

The Development Control Archaeologist has no objection to the development subject to conditions to secure archaeological investigation of potential remains on the site. The County Planning Authority also comments that the submitted information on heritage assets required by PPS 5 are sufficient to allow the scheme to be determined in accordance with this Council's Heritage and Conservation Officer.

Severn Trent Water has no objection to the proposal subject to foul and surface water disposal details being submitted before development is commenced.

Natural England agree with the assessment that bats are unlikely to roost in any of the trees albeit that they may forage within the site and any disturbance would be to foraging areas rather than roost and that the trees that have the potential to act as roosts should not be felled. It is recommended that the new landscaping should contain planting that would attract bats.

The Environment Agency has objected on the basis that the site should drain to the foul sewer rather than the package treatment system proposed. The objection would be removed if the site utilises the adopted foul sewer system.

The comments of the Heritage and Conservation Officer and Tree Officer are included in the Planning Assessment below.

Responses to Publicity

18 letters or e-mails have been received objecting to the development.

One letter from a planning consultant on behalf of the occupiers of 14 properties who are against the development has also been received. The objections can be summarised as follows:

- a) Highway safety matters are not addressed in the application as stated as none of the improvements to Burnaston Lane secured for the previous application have been included in this application. Highway safety is a major issue, as the development would significantly increase the use of an access to Burnaston Lane that is not suited to extra traffic. The drive itself is not wide enough to allow two cars to pass and this could result in traffic reversing out on to Burnaston Lane that is barely wide enough to allow two vehicles to pass. This increase in traffic using the access would be in the order of 80% where visibility towards Main Street is substandard. The same would be said of vehicles waiting to turn into the site where traffic turning into Burnaston Lane from Main Street would have views of the waiting traffic obscured by the roadside hedge. Users of the site would only be able to access the village centre by walking along Burnaston Lane where there is no footway. The Design and Access Statement fails to address these issues.
- b) Whilst the application is now accompanied by a Heritage Statement, which is welcomed, it is considered deficient in a number of ways that suggest that the document should be corrected prior to determination of the planning application.
- c) The application is still accompanied by the same Arboricultural assessment that supported the 2009 application, this has no regard for the newly designed scheme with its reduced land levels and the letter from the tree consultant that accompanied the application does not demonstrate how the conclusion that the trees would not be adversely affected by this proposal.
- d) The assertions that the application is supported by the draft National Planning Policy Framework are contested in that this document is still at an early stage of preparation. It is asserted that Etwall may not be a sustainable location, there are only a few shops, and surveys have demonstrated that between 40% and 60% of residents travel to either Burton or Derby for work. Whilst there is a regular bus service, the majority of people would use the car to access employment.
- e) The applicant makes much of the fact that the lawns around Etwall Lawn would be retained. There would be a significant loss of the open area around the listed building, and nothing would compensate for that loss.
- f) The changes to the design of the houses are welcome although the Design and Access statement is silent on the guiding principles behind the design. This suggests that the Design and Access statement has been drawn up after the proposed houses had been designed and made to fit that design.
- g) The trees along the east boundary would be at risk even if a Tree Preservation Order were placed on them. Once houses are occupied there would be pressure to have them removed due to the heavy shade, leaf and branch drop, notwithstanding that the applicant describe the trees as having high landscape value and encourages the placing of an order on these trees. If development were permitted this high landscape value would be compromised by the very presence of the dwellings that would reduce the impact of the trees to glimpses of the upper branches above the proposed dwellings from within the Conservation Area.

The following are additional objections submitted by the residents:

- a) The scale, height and massing of the proposed development would have an adverse impact on surrounding properties. The proposals are not in keeping with the South Derbyshire character as defined in SPG - Housing Layout and Design with overlooking of houses on Lawn Avenue, there would be a loss of outlook from those properties.
- b) Notwithstanding the assertions of the applicants some 2700sqm of the land surrounding the historic building would be lost and some of the development site intrudes into the Conservation Area.
- c) There are dwellings that overlook the proposed dwellings on Park Way and Lawn Avenue contrary to the assertions in the application.
- d) Etwall Lawn is a historic gem in the care of its current owner who should not be allowed to vandalise the site by putting up housing that detract from the setting of Etwall Lawn itself but the other listed buildings that are attached to it.
- e) The site no longer conforms to the definition of Brownfield land that it enjoyed when the previous application was refused. Permission should not be given to the benefit of a particular owner, the building should be preserved for future generations.
- f) Local Plan policies reflect national guidance in that they seek to preserve the character, identity and environmental quality of South Derbyshire villages and settlements. This statements seems in harmony with the emerging National Planning Policy Framework
- g) The reason for refusal in 2010 remains a valid and nothing in the current application statements remove the fundamental objection to the development set out in that decision.
- h) In order to address the lack of a footway between Main Street and Lawn Avenue, land should be compulsory purchased to facilitate its provision.
- i) Unit C encroaches into the Conservation Area and does not preserve or enhance the character or appearance of the Conservation Area.
- j) There is no need for more 4-bedroom homes smaller homes are required.
- k) The County Highway Authority has standards that limit the number of houses served off a private drive to 5 – there would be many more than that if this development was permitted.
- l) The submitted plans mislabel the elevations.
- m) There have been numerous 'back garden' developments that have altered the character of the village; in fact the village is becoming unrecognisable. The village must be approaching saturation point in terms of new housing development. However, a need for affordable housing (up to 18 units) in Etwall has been established and Etwall Lawn would be an ideal location to meet this need - to date no such developments have occurred.
- n) A footpath should be provided in the same way as required for the development further along Burnaston Lane. This is an unlit lane and lights on it or the access drive could cause detriment to the occupiers of nearby houses; there is currently no footpath on either side of Burnaston Lane.
- o) In addition to the bats, birds, hedgehogs and squirrels have been observed on the site this is their haven in the middle of the village. Trees and shrubs would be lost as a result of the development. Those retained would compromise the living conditions for future occupiers, giving the occupiers of the new houses a feeling of being cramped

Development Plan Policies

The relevant policies are:

EMRP: Policies 1, 2, 3, 12 and 27.

Saved Local Plan: Housing Policies 5 and 11, Environment Policies 9,12 and 13.

National Guidance

PPS1, PPS3, PPS5 & PPG13.

Planning Considerations

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

- Previous Officer advice
- The Development Plan and Government Advice on Heritage Assets
- National Planning Policy Framework
- Highway safety issues
- Nature Conservation and Ecology Issues
- Trees and landscaping

Planning Assessment

Previous Officer Advice

The comments of the applicants on this issue are noted. There was a recommendation to permit the 2009 planning application that was overturned by the Committee when it met to consider that application. The applicants have been advised that the reason for refusal for that application as put forward by the Committee represents sound grounds in principle for refusing permission for development.

In seeking discussions with officers, the applicants have been made aware of this view and that any comments made about design of dwellings or commenting on submissions were made on the basis that the matter of the principle of development could not be overcome by changes to the design of the buildings. The purpose of the meetings was to allow the applicants to produce a scheme that they felt would best suit the site and then if Committee were still minded to refuse the scheme, the current scheme would form the basis of an appeal to the Secretary of State.

Nothing in the applicant's submissions has overcome the previously expressed view of the Authority that the principle of housing development on the site is not acceptable and it is considered that the recommendation below is based on sound planning judgement and is capable of defence at appeal.

The Development Plan and Government Advice

The site lies within the defined village confines of Etwall. The principle of housing development is therefore potentially acceptable subject to the consideration of environmental or traffic impact, under the provisions of Housing Policy 5. However in this case the impact on the setting of the Grade II listed building is considered fatal to that principle of acceptance for the reasons set out in the recommendation. The proposal is therefore considered contrary to Environment Policy 13 of the adopted Local Plan and Government advice as set out in PPS 5 at policies HE9 and HE10.

Highway Safety Issues

The County Highway Authority in response to the 2009 application required a condition requiring the removal of part of the hedgerow within highway limits on Burnaston Lane to provide a visibility splay towards Main Street. The necessary land to allow the provision of the visibility splay is not included in the application site and as such no condition can be imposed. The applicant is liaising with the County Highway Authority to see if an amended plan can be submitted and the outcome of those discussions will be reported at the meeting.

Nature Conservation Issues

In response to the assertion that bats are present in the locality, the applicants were asked to carry out an initial assessment of the likelihood of bats roosting within the site (the presence of bats or other protected species can lead to development being refused). However, English Nature has commented that the submissions made are reasonable and that the habitat could be improved with appropriate planting schemes in the development site.

Trees and Landscaping

The trees within the application site are an important feature and have a Tree Preservation Order placed on them. In response to this application the Council's Tree Officer advises that the protection works proposed in the Tree Report should ensure the retention of the trees during building operations. However, he has stated that once developed, there is a strong possibility that there would be pressure to have trees removed due to their impact on the living conditions within the dwellings.

None of the other objections fall to be considered in detail in this assessment, as the recommendation is to refuse planning permission for the reason set out below.

Recommendation

REFUSE planning permission for the following reason:

The development site lies within the curtilage of Etwall Lawn, a Grade II Listed Building. Historic evidence shows that the listed building had a large area of parkland that was eroded by development in the 1960s and 1970s. The remaining curtilage is therefore important to the setting of the listed building to a point where any further loss to development would erode the setting of the listed building to the detriment of its historic character. Policy 27 of the adopted East Midlands Regional Plan together with saved Environment Policies 12 and 13 seek to ensure that the historic assets of the District are retained such that any new development should demonstrate either a neutral or an enhancement to both the character or appearance of the Conservation Area or retain the setting of Listed Buildings. It is considered that the present boundary features formed by the fences with the protected trees to the houses on Lawn Avenue and Park Way constitute the curtilage of Etwall Lawn on its east and south flanks. In turn the future of these trees could be jeopardised by the development by their close proximity and future impact on living conditions contrary to Environment Policy 9 of the Local Plan. The erection of 3 new houses within its curtilage would compromise the setting of the Grade II listed building in the Etwall Conservation Area to the detriment of the setting of the listed building and would not preserve or enhance the character or

appearance of the listed building from views within the Conservation Area contrary to these policies and the policies set out in PPS 5 that seek to ensure that the setting of Historic assets are retained for future generations.

Item **2.2**

Reg. No. **9/2011/0725/FO**

Applicant:

MR M J DEAKIN
J D DEAKIN & SONS
CHURCH FARM
COTON IN THE ELMS
SWADLINCOTE

Agent:

MR M J DEAKIN
J D DEAKIN & SONS
CHURCH FARM
COTON IN THE ELMS
SWADLINCOTE

Proposal: **OUTLINE APPLICATION (ALL MATTERS RESERVED)
FOR THE ERECTION OF A DWELLING ON LAND TO
THE NORTH EAST OF 1 CHURCH CROFT COTON IN
THE ELMS SWADLINCOTE**

Ward: **SEALES**

Valid Date: **25/08/2011**

This application was originally brought to the 11 October 2011 committee however it was withdrawn from the agenda on the day of committee as Officer's wished to check the Tree Preservation Order (347) which appeared to contain some anomalies when the trees were viewed again on site. The Tree Preservation Order (347) has now been replotted and reissued and the report has been amended accordingly.

Reason for committee determination

Councillor Frost has requested that the item be brought to committee, as committee should debate the issues in this case, which are very finely balanced.

Site Description

The application site is outside the defined village boundary of Coton in the Elms adjacent to open fields and countryside. To the west of the site is a farm track leading to open fields and countryside and the site contains trees the subject of a Tree Preservation Order (347) which consists of two individual specimens and also a group of trees located to the side of the proposed access road, an Oak tree within the proposed access road and also trees to the north and east of the site.

Proposal

The application submitted is in outline with all matters reserved and is for the erection of one residential bungalow on the land, accessed via a new driveway running between No 2 Church Croft and No 1 Church Croft using a shared access which currently serves No's 7 and 1 Church Croft.

THE SITE

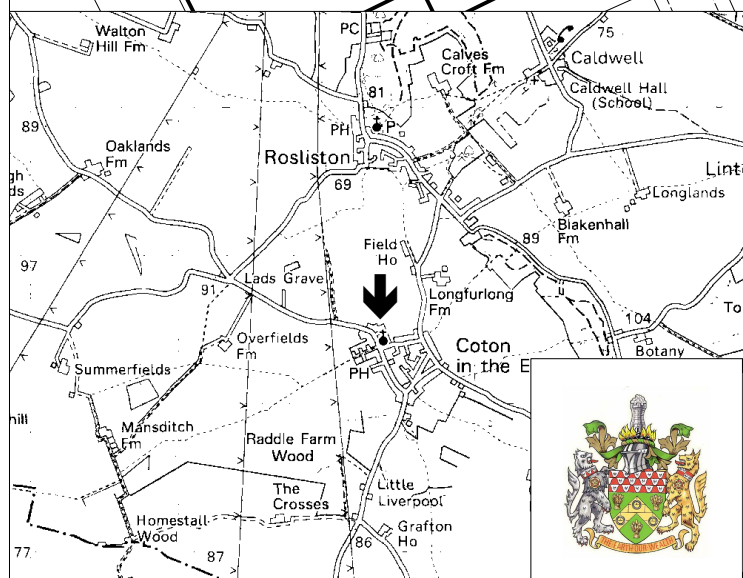
Cotd

Track

85.6m

CHURCH CROFT

St Mary's
Church



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South Derbyshire District Council. LA 100019461. 2010

Planning History

9/2011/0289 - outline application (all matters reserved) for the erection of a dwelling – refused 02 June 2011. Reasons for refusal:

‘1. Saved Environment Policy 1 and Housing Policy 8 of the South Derbyshire Local Plan and paragraphs 10 and 15 of PPS7 seek to restrict development in the countryside to that essential to a rural based activity or unavoidable in the countryside and where amongst other things the character and landscape quality of the countryside are protected. The site lies in open countryside and the proposed dwelling is not essential to a rural based activity. The proposal therefore fails to meet the criteria set out in Saved Environment Policy 1 and Housing Policy 8 and PPS7.

2. Saved Housing Policy 5 of the South Derbyshire Local Plan restricts new housing development within the village confines as defined on the proposals map. The site proposed is outside the village confines and therefore fails to meet the criteria set out in Saved Housing Policy 5.

3. The proposed development for the erection of a dwelling in this location would require the removal of trees on the site, consisting of Oak, Silver Birch, Maple, Whitebeam, Cypress, Pyrus, Ash and Dawn Redwood which are protected by a Tree Preservation Order No.347. The trees provide a high amenity value, are highly visible from public vantage points including the footpaths around Church Croft and provide a valuable landscape feature, the loss of which would be to the detriment of the visual amenity and character of the area, would be a loss of a natural habitat and contrary to Planning Policy Statement 9, Saved Environment Policy 9 of the South Derbyshire Local Plan and Policies 1, 26 and 30 of the East Midlands Regional Plan 2009.’

Responses to Consultations

Coton in the Elms Parish Council does not raise any objections to the application as submitted and requested that the application be determined by planning committee.

Severn Trent Water has no objection.

The County Highway Authority does not raise any objections and advise that the comments made on application 9/2011/0289 still stand, as there are no amendments to the current application under consideration.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

EMRP: Policies 1, 2, 3, 26 and 30

Saved Local Plan: Housing Policies 5 and 8, Transport Policy 6, Environment Policies 1, 8 and 9.

Housing Design and Layout Supplementary Planning Guidance 2004 (SPG).

National Guidance

PPS 1, 3, 7 and 9.

Planning Considerations

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

- Development plan policy and national guidance and advice
- Impact of the proposal on the neighbours
- Impact on highway safety
- Impact on the trees covered by Tree Preservation Order 347

Planning Assessment

The application as stated above is in outline form only and all matters are reserved. An identical application was refused in June 2011(9/2011/0289).

The site lies outside the village confine as defined on the proposals map of the adopted plan and although on the edge, the proposed development cannot be accommodated within it and as such is not in accordance with Housing Policy 5.

As the development is not located within the village settlement of Coton in the Elms the most relevant policy therefore is Housing Policy 8 which considers housing development in the countryside and it is clear that for housing to be considered acceptable in the countryside it must be: necessary to the operation of a rural based activity, require a countryside location for efficiency, relate well to existing buildings and be of a size commensurate with the functional requirement of the activity. From the applicants supporting information the proposed development does not meet the criteria for being considered favourably under Housing Policy 8.

The local policies are consistent with both regional and national guidance, which seek to limit new residential development in the countryside without special justification.

The impact of the proposal on the neighbours cannot be fully assessed at this stage as it is outline in form and therefore no elevational details or siting have been submitted.

In terms of highway safety no objections have been raised by the County Highway Authority provided the LPA are satisfied that a right of access between the highway and the application site exists. Currently a private driveway that appears to service both 1 Church Croft and 7 Church Croft accesses the site.

The trees that are on the site provide extensive coverage, are highly visible from the highway and street scene and provide an excellent habitat for wildlife. For these reasons a tree preservation order was considered appropriate (TPO 347 as amended). The proposed access to the development would require the removal of a protected Oak tree in the order and would also run beneath the canopy of five other protected trees which could cause them serious damage and ultimately their removal. As such the proposal would be contrary to saved Environment Policy 9.

Recommendation

REFUSE permission for the following reasons:

1. Saved Environment Policy 1 and Housing Policy 8 of the South Derbyshire Local Plan and paragraphs 10 and 15 of PPS7 seek to restrict development in the countryside to that essential to a rural based activity or unavoidable in the countryside and where amongst other things the character and landscape quality of the countryside are protected. The site lies in open countryside and the proposed dwelling is not essential to a rural based activity. The proposal therefore fails to meet the criteria set out in Saved Environment Policy 1 and Housing Policy 8 and PPS7.
2. Saved Housing Policy 5 of the South Derbyshire Local Plan restricts new housing development within the village confines as defined on the proposals map. The site proposed is outside the village confines and therefore fails to meet the criteria set out in Saved Housing Policy 5.
3. The proposed development for the erection of a dwelling in this location would require the removal of trees on the site, consisting of Oak, Silver Birch, Maple, Whitebeam, Cypress, Pyrus, Ash and Dawn Redwood which are protected by a Tree Preservation Order No. 347. The trees provide a high amenity value, are highly visible from public vantage points including the footpaths around Church Croft and provide a valuable landscape feature, the loss of which would be to the detriment of the visual amenity and character of the area, would be a loss of a natural habitat and contrary to Planning Policy Statement 9, Saved Environment Policy 9 of the South Derbyshire Local Plan and Policies 1, 26 and 30 of the East Midlands Regional Plan 2009.

Item 2.3

Reg. No. 9/2011/0735/FH

Applicant:

D Savory
The Dairy
Hall Farm
Main Street
Netherseal
Swadlincote

Agent:

D Savory
The Dairy
Hall Farm
Netherseal
Main Street
Swadlincote

Proposal: **THE INSTALLATION OF SOLAR PANELS AT THE DAIRY
HALL FARM MAIN STREET NETHERSEAL
SWADLINCOTE**

Ward: **SEALES**

Valid Date: **01/09/2011**

Members will recall deferring this item to enable the Committee to visit the site.

Reason for committee determination

This application is brought before committee at the request of Councillor Mrs Hall as the committee should debate the issues in this case which are very finely balanced.

Site Description

The application property is a former agricultural barn of Hall Farm, converted to residential use in the late 1990s. The complex sits in the northwest corner of Netherseal village on the boundary of the village confines and within the Netherseal Conservation Area. The site is accessed off Main Street via a private driveway behind the village school.

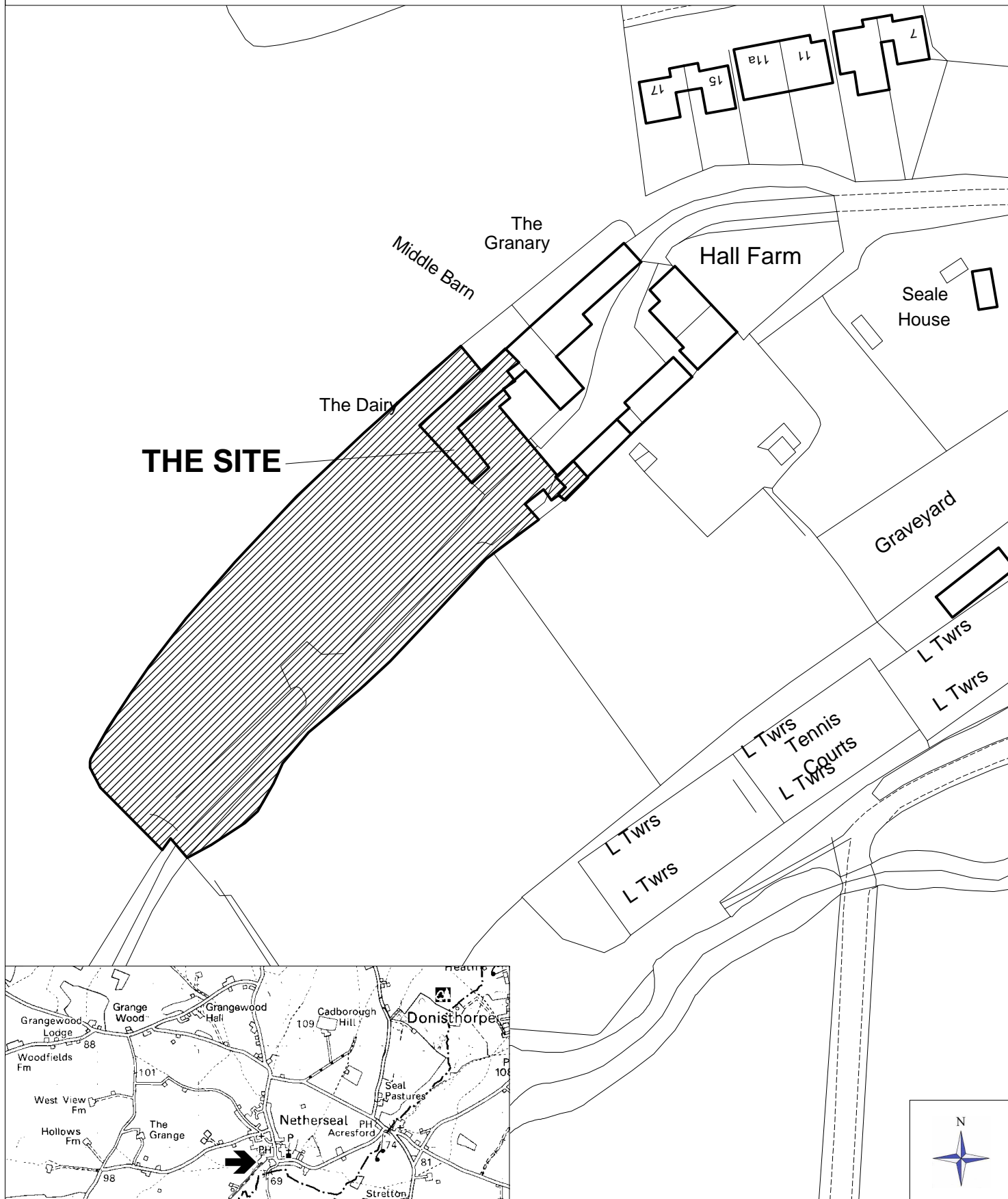
There is open countryside to the north, west and south of the application site with a public footpath to the northwest and a public bridleway to the south west.

Proposal

The proposal is for the installation of an array of 18 solar panels on the south-west facing roof of the south east orientated single storey range of the property.

Applicants' supporting information

**9/2011/0735 - The Dairy, Hall Farm, Main Street, Netherseal,
Swadlincote DE12 8BZ**



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South Derbyshire District Council. LA 100019461. 2010

The applicant has submitted a Design and Access Statement (DAS) which includes the following:

General introduction

- The proposed development consists of the installation of solar panels. The Government is incentivising such development as part of its policy to achieve 20% of all energy generated from renewable sources by 2020 as part of its climate change and energy security strategy and sustainable development strategy. Under normal circumstances planning permission would not be required, as permitted development rights would apply. However permitted development rights have been removed at the property by virtue of a condition attached to the planning permission granted for the barn conversions in February 1999.
- Energy costs for residential properties in Netherseal are proportionally higher than elsewhere because of the absence of mains gas and the consequential reliance upon more expensive oil and electricity. Solar panels provide an opportunity to address these higher costs in a manner consistent with Government policy. To encourage such developments the Government has amended the General Development Order in 2008 to include solar panels and has provided financial incentives through the “Feed in Tariff” (FIT). This support for domestic renewables is also explicit in Planning Policy Statement 22: Renewable Energy, which identifies key principles that Local Planning Authorities (LPA) are required to adhere to in relation to providing support and encouragement to such developments.

The Dairy, Hall Farm

- The Dairy forms part of a group of interconnected barns converted from agricultural to residential use in 1999. Prior to this the barns were derelict and in a poor state of repair. Three residential units were formed; The Dairy, Middle Barn and The Granary. The latter 2 retain their original 2 storey form and footprint. A single storey extension was added to the original building comprising The Dairy to provide bedroom accommodation, which increased the floor space of the property by approximately 50%. A second smaller utility room extension was added in 2006 resulting in approximately 40% of the footprint of the property being new build. Whilst the two extensions have been built in an external style complimentary to that of the original barn, they have no historic heritage and only limited architectural value.
- The proposed 18 panel array, which will provide a maximum of 4kW of electricity, is considered to be the optimum size for a domestic photovoltaic system based on FIT rates, installation costs and payback periods. The initially selected roof area for the installation was the south west facing roof of the first extension.
- A similar application for a solar panel array installation on the south west facing roof of Middle Barn (attached neighbour) was refused on 21st July 2011. Following discussions with the LPA it was established that the basis of the refusal was that the solar panels would be visible from a public footpath and/or bridleway, described by the LPA as a public vantage point.
- In consultation with the LPA, 3 alternative locations were considered for the solar panel installation and the LPA's Conservation and Heritage Officer provided comments on each one. All 3 locations are visible from the bridleway to the south but are considered by the LPA to be “less intrusive on the special interest and character of the buildings/conservation area” and subject to conditions the LPA

“would be prepared to support a proposal”. However the 3 locations have been rejected as unsuitable.

Location 1: installation on south east facing roof of The Dairy

- This is the original historic part of the property and would require the solar panels to be installed on an oak vaulted roof, increasing the technical complexity and therefore the installation cost.
- The panels would be clearly visible from Middle Barn, being immediately opposite and adjacent to the main, first floor living accommodation and the courtyard to the property.
- The panels would be shaded during the winter months by trees to the east reducing the economics of the scheme.

Location 2: installation on south east facing roof of The Dairy's two garages

- The two garages are located to the east of The Dairy and are immediately adjacent to the bridleway which passes alongside the outer wall of the garages. The roof space will not accommodate a 4kW (18 panels) system and it would therefore need to be reduced in size consequently reducing the economics of the scheme.
- The rear garage wall, adjacent to the bridleway, is in a very poor state of repair and was clearly not reconstructed as part of the renovation/conversion of the barns in 1999. The wall is unlikely to support the weight of the solar panels in its current condition and would have to be substantially rebuilt. The rear roof structure is similarly in a poor condition and significant reinforcement may be required to support the panels, significantly increasing the installation cost.
- An electrical connection between the garages and The Dairy will be required to enable the generated electricity to be exported. This will require excavation through a shared driveway and paths/garden of The Dairy at significantly higher cost than the proposed location.
- Installation of solar panels on the garage roof slope adjacent the bridleway could represent a target for vandalism and risk of damage to the panels from stones and rocks being thrown onto the roof.

Location 3: installation on a free standing wood framed or similar building in the garden, south of The Dairy.

- The LPA have confirmed that construction of a small timber frame building (less than 4m high) would require planning permission despite the fact it would be outside the Conservation Area. Whilst the building could be optimally aligned so the panels faced due south, the LPA have indicated that the building should be aligned to the axis of The Dairy, hence there would be no increase in the efficiency of the system compared with the other options.
- The installation cost would be significantly higher, including the cost of the building and the electrical connection costs, making the scheme economically non-viable.

Justification for proposed location of development

- It is therefore proposed to install the solar panels on the south west facing roof of The Dairy as originally proposed. This provides the appropriate alignment, approximately 45° west of south, is not significantly shaded by trees and the installation will be on a modern conventionally trussed roof simplifying the installation and reducing the cost.

- The only visible part of the system will be the solar panels installed on the south west facing roof of The Dairy. The existing roof is covered in black/dark grey clay tiles.
- In order to minimise visual impact, the glass panels are predominately black in colour and of low reflectivity with black frames and installed on a framework that is black and non-reflective. All other components will be within the roof space and therefore not visible.
- The panels will be aligned in a 6 x 3 array located centrally on the roof, equidistance from the edges, ridge and eaves, and will cover 25m², being 50% of the south west facing roof slope and less than 5% of the total roof area of The Dairy. The panels will be within 100mm of the roof surface.
- The proposed installation will address all the exceptions to the permitted development rights for solar panels. No part of the roof area to be used is visible from any public highway, including Main Street and Church Street to the north east and Chilcote Road to the south, any residential property or any other part of the conservation area.
- There are views from a footpath which runs along the north west boundary of the property and then crosses a field to the north in a southwest-northeast direction. The closest point from which the panels will be viewed is approximately 75m and at this distance visual impact will be minimal or insignificant. There is a bridleway which runs adjacent to and parallel with the south western boundary of the property and at its nearest point is approximately 25m from the solar array location. Whilst the panels will be visible from this point, the impact will not be significant. It is questionable whether the panels will be more intrusive than if they were installed on the south east facing roof of The Dairy or the 2 garages, locations which the LPA have indicated support for.

The DAS goes on to explain in detail how the proposal conforms with:

- Part 40, Class A of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 for the installation of domestic microgeneration equipment;
- Planning Policy Statement 22: Renewable Energy and Planning Policy;
- Statement 5: Planning for the Historic Environment;
- South Derbyshire District Council Local Plan Environmental Policy 12: Conservation Areas; and
- The Netherseal Conservation Area Character Statement

Conclusion

The proposed development is entirely consistent with Government policy regarding climate change, sustainable development and energy security, and through financial incentives and extended permitted development rights the Government has created a framework for householders to install such systems.

LPAs are required to actively support the development of renewables and to give significant weight to the environmental and economic benefits in the determination of planning applications, including in relation to installations on heritage assets.

The selected location for the solar panels is on a part of the building constructed in 1999. This part of the building is therefore not a heritage asset and has only limited architectural value. The design and arrangement of the solar panels is such they will have minimal, if any, impact on the appearance of The Dairy and this will be temporary

and reversible. Any impact on the appearance of The Dairy will not be visible from a public highway, from any other location in the conservation area or from any other property.

The development will be visible from a bridleway and footpath, however these “public vantage points” are not considered material in the Government’s review of permitted development rights relating to solar panels, i.e. ‘planning consent is required when panels are fitted on the principal or side elevation walls and they are visible from the highway’.

The alternative locations reviewed by the LPA would be closer to the bridleway and are therefore considered to be more intrusive than the proposed location. The alternative locations, to which the LPA have indicated support, have been rejected by the applicant on the grounds of cost and efficiency.

Planning History

Planning permission was granted during the late 1990s to convert the former agricultural buildings into 3 dwellings (ref’s 9/0791/0337/F, 9/0796/0302/F, 9/1297/0744/F and 9/1999/0801/F). The application property was granted permission for a single storey extension in March 2007 (ref 9/2007/0084/FH).

Refused scheme for PV cell array at the adjoining property, Middle Barn (planning application 9/2011/0294).

Responses to Consultations

The Conservation and Heritage Officer has recommended that the application be refused on the following grounds:

The application building is a converted barn in a typical arrangement of former farm buildings at Hall Farm. There are clear views of the roofslope from a public footpath and public bridleway. Although it is accepted that solar panels will soon become a familiar part of the local scene, even in conservation areas, due to relaxed permitted development rights, the legislation provides for exceptions to this general permission in the interests of preserving the character of particular historic buildings. Principal exceptions, apart from listed buildings, may include converted agricultural buildings, which often gain their strong character from their simple plainness and the qualities of their building materials. Permitted development rights may be removed at the time of conversion in the interests of preserving these attributes, and the barn at Hall Farm belongs in this latter category.

The proposed solar panels would hide a substantial part of the large unbroken roof slope of small plain clay tiles that lends character to the building, replacing them with an alien material. Through the division of the roofslope into separate areas, the proposed panels would also adversely affect the bold scale, unity and simplicity of the roof and would therefore be considered an incongruous addition to the historic building.

The proposal would therefore have a detrimental effect on the special architectural and historic interest of the former agricultural barn and on the character and appearance of the heritage asset, the Netherseal Conservation Area contrary to Saved Environment Policy 12 of the Adopted Local Plan and Planning Policy Statement 5.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

Local Plan: Saved Environment Policy 12 of the Adopted Local Plan.

National Guidance

PPS 5

Planning Considerations

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

- The impact of the proposal on the character and appearance of the barn conversion; and
- The impact on the proposal on the character and appearance of the conservation area.

Planning Assessment

The proposal for the installation of solar panels was subject to pre-application discussions, however the proposed scheme as submitted was discouraged for similar reasons to the refused scheme at the adjoining property, Middle Barn (planning application 9/2011/0294/FH – see ‘Responses to Consultations’ section above for reasons).

There is a lot of national guidance and policy stimulating the use of solar energy, and in general Local Planning Authorities are encouraged to treat such development favourably. Since 2008 the Government has granted extensive permitted development rights for solar energy installations, even in conservation areas, however, it is a requirement that panels on a building should be sited, so far as is practicable, to minimise the effect on the appearance of the building.

In the case of The Dairy, permitted development rights have been removed for the usual reason that the essential simple character of residential barn conversions is easily spoilt by accretions and insensitive alterations that would normally be permitted development. Old farm buildings frequently derive their character from their simplicity, bold shapes and texture of walling and roofing materials.

For development in a conservation area requiring planning permission, the test still holds that development should preserve or enhance the character or appearance of the area (Local Plan). It is contended that this scheme for solar panels would not do that. The roof slope is highly visible from the footpath and bridle path approaching Netherseal from the south west, and the buildings group attractively in the view with the farm house itself. Solar panels covering a large part of the roof surface would have a marked effect on the historic character.

Planning Policy Statement 5 Practice Guide (paragraph 25) notes that *"intrusive interventions, such as the external mounting of microgeneration technology, can harm the significance of a heritage asset."* English Heritage's policy is that microgeneration equipment in conservation areas will be acceptable if (among other things) *"the visual impact of the equipment is minor or can be accommodated without loss of special interest"*. It is considered that the proposed installation does not meet these criteria for acceptability.

There is a clearly-evidenced desire for similar solar panels on the adjoining property Middle Barn, and if the present application is granted it would greatly weaken the Council's case for defending an appeal on Middle Barn, which is still current in the sense that there is time for an appeal to be lodged. The cumulative effect of both schemes would have a very significant effect on the character of the group as a whole.

Three alternative positions suggested by the owners of Middle Barn and The Dairy, (i.e. on the south east facing roofslopes), were considered. These are still publicly visible but have less impact on views of the group as a whole and would be invisible in the most important views from the south west and north west. Given the more limited visibility, extensive permitted development rights for solar panels in conservation areas, and the favourable government guidance, it is considered that all three of these locations could be acceptable and would still meet the main criterion of preserving the character of the area. Where planning permission is required, the Local Planning Authority is not obliged to find a suitable place to put solar panels in every case, and the Heritage and Conservation Officer does not consider the objections put forward to these suggestions to be conclusive evidence of unsuitability.

The options for a free-standing building were never fully explored and there could be potential in this idea to achieve something satisfactory. There is no reason why it could not be as successful as an installation on the existing building.

The applicant's comment that the part of the building concerned is a modern addition has been noted, but cannot be considered as relevant as the addition was designed to respect the layout, form, massing and materials of the older 'parent' buildings, and on the whole sits satisfactorily among them.

The proposal should therefore be refused on the grounds that the solar panel array would have a detrimental effect on the character of the application property, the farm group as a whole and the character and appearance of the conservation which is contrary to Saved Environment Policy 12 of the Adopted Local Plan and Planning Policy Statement 5.

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

Recommendation

REFUSE permission for the following reason:

The application building is a converted barn in a typical arrangement of former farm buildings at Hall Farm. There are clear views of the roofslope from a public footpath and public bridleway. Although it is accepted that solar panels will soon become a familiar

part of the local scene, even in conservation areas, due to relaxed permitted development rights, the legislation provides for exceptions to this general permission in the interests of preserving the character of particular historic buildings. Principal exceptions, apart from listed buildings, may include converted agricultural buildings, which often gain their strong character from their simple plainness and the qualities of their building materials. Permitted development rights may be removed at the time of conversion in the interests of preserving these attributes, and the barn at Hall Farm belongs in this latter category.

The proposed solar panels would hide a substantial part of the large unbroken roof slope of small plain clay tiles that lends character to the building, replacing them with an alien material. Through the division of the roof slope into separate areas, the proposed panels would also adversely affect the bold scale, unity and simplicity of the roof and would therefore be considered an incongruous addition to the historic building.

The proposal would therefore have a detrimental effect on the special architectural and historic interest of the former agricultural barn and on the character and appearance of the heritage asset, the Netherseal Conservation Area contrary to Saved Environment Policy 12 of the Adopted Local Plan and Planning Policy Statement 5.