

REPORT OF THE HEAD OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications SECTION 2: Planning Appeals

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

1. PLANNING APPLICATIONS

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

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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. 9/2011/0889/SGF

Applicant:
ATL LIMITED
WOODYARD LANE
FOSTON
DERBYSHIRE
DE15 0WL

Agent:
JOHN CHURCH PLANNING
CONSULTANCY LTD
VICTORIA BUILDINGS
117 HIGH STREET
CLAY CROSS
CHESTERFIELD
DERBYSHIRE
S45 9DZ

Proposal: **THE ERECTION OF A WAREHOUSE EXTENSION &
ASSOCIATED OFFICES AND WAREHOUSE/LIGHT
INDUSTRIAL UNITS AT ATL LIMITED WOODYARD
LANE FOSTON DERBY**

Ward: HILTON

Valid Date: 07/12/2011

Members will recall deferring these two applications to enable a site visit to take place. No changes have been made to the report.

This is a joint report for 9/2011/0889 and 9/2011/0890. The report has been delayed due to extensive negotiations between the applicants, the Highways Agency and the Environment Agency. The contents of this report apply equally to 9/2011/0890 save for the recommendations and the terms of the Section 106 Agreements where the contributions vary according to the type of planning application.

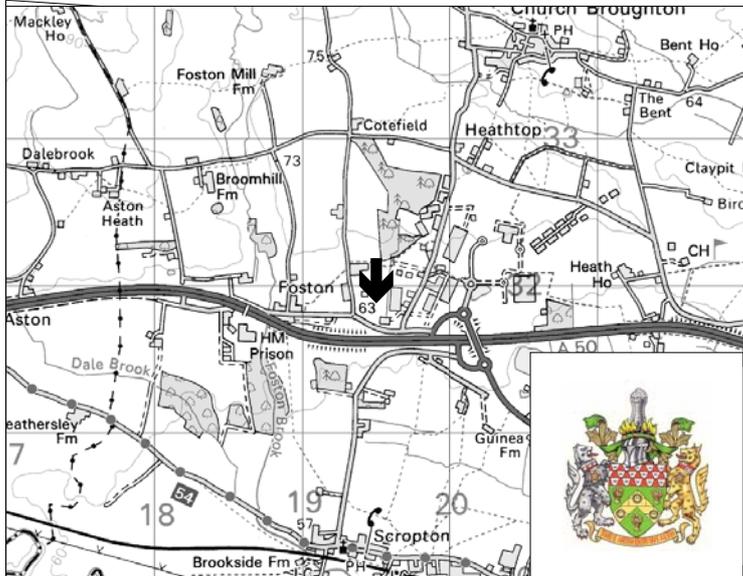
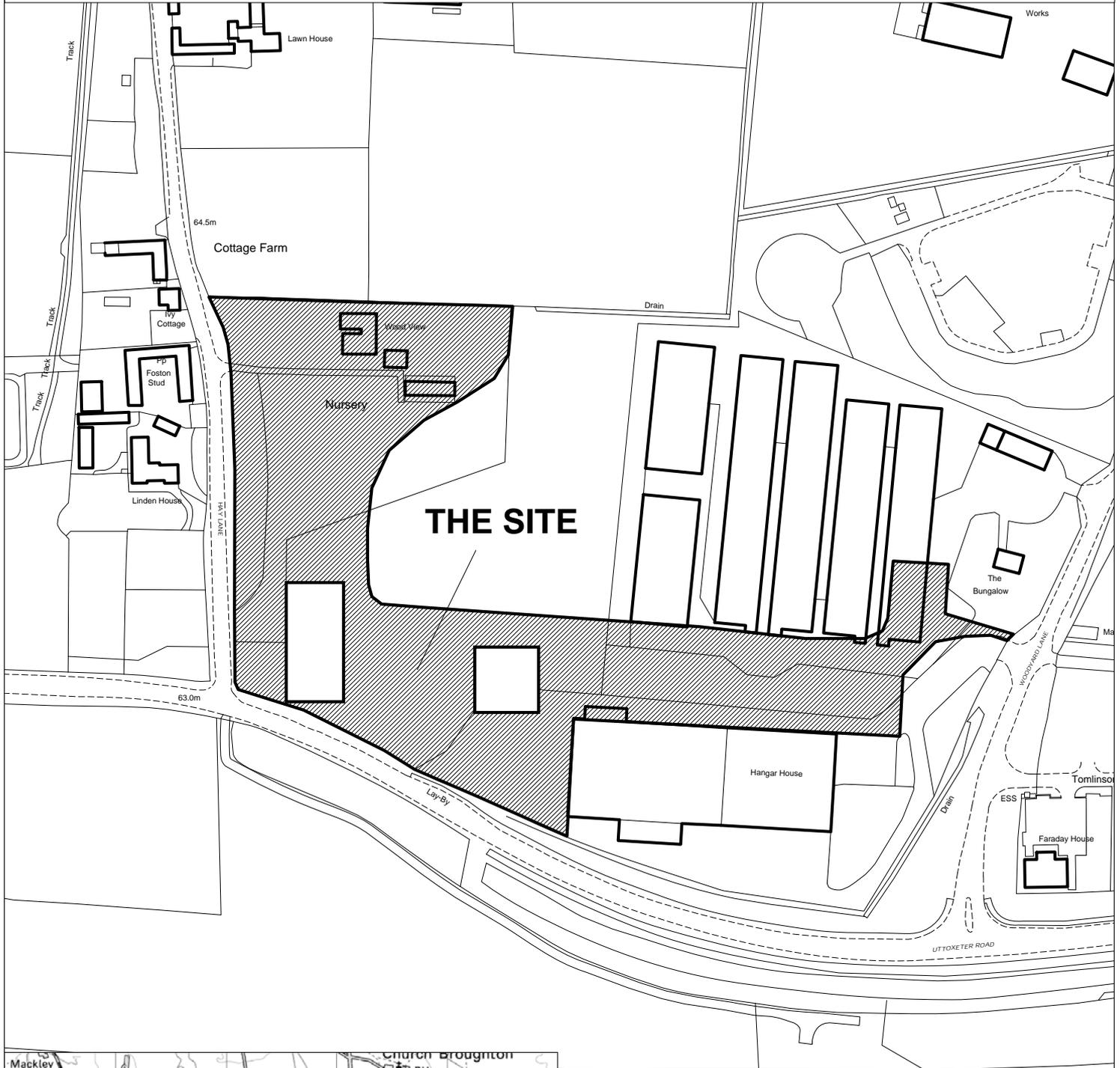
Reason for committee determination

These are major planning applications to which more than two objections have been received and as such determination falls to the Planning Committee.

Site Description

The ATL ownership boundaries extend along the old route for Uttoxeter Road from its junction with Woodyard Lane in a westerly direction as far as Hay Lane. It then extends north along Hay Lane to the south west corner of Lawn House and then follows the south and east boundary to Lawn House where it extends along the east boundary of Foston Farm Produce (as was). It then follows the north boundary of that site before turning south along the boundary to WG Tankers; then it follows the west boundary of the Gypsy site tuning east back towards Woodyard Lane along the south boundary of the Gypsy site and then to the south back to Uttoxeter Road. The site encompasses

9/2011/0889 - ATL Limited, Woodyard Lane, Foston, Derby DE13 0WL



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the former Brandon Turkey sheds as well as the former dog kennels and nursery on Hay Lane.

The physical context for the development lies in the location of the premises of ATL Ltd, the southern part of the applicant's ownership comprises existing distribution warehouses and the Company's headquarters offices. Immediately to the north of this area are the former turkey farm and associated buildings that benefit from planning permission, and are used for storage and distribution purposes. To the west of these buildings a clearly defined boundary with open land separates the existing built-up part of the ownership from Hay Lane.

The boundary to Hay Lane forms a substantial block of woodland previously used as a nursery and kennels, and is subject to a Tree Preservation Order. To the north of the woodland there is an existing open break alongside Hay Lane. The northern limit of the applicant's ownership comprises a parcel of land where there is planning permission for the erection of a cold storage building.

Access to the site would be from Woodyard Lane. This was recently improved following the grant of planning permission for another development within the application sites.

Public Footpath No 8 follows the north boundary of the former Foston Farm Produce part of the site.

Proposal

The scheme originally submitted in 2011 as an outline planning application has been amended to remove some of the units adjacent to Woodyard Lane. The full planning application is unchanged and involves adding an additional bay to the existing warehouse building and the erection of a separate unit on the west side of the site.

The revised outline planning application relates to further development on land in the control of the applicant to the north of the existing site. The layout and access to these developments is sought now with all other matters reserved for subsequent permission. The outline development is a large warehouse built on the area of the existing turkey sheds and a range of other smaller units primarily used by companies associated with the ATL transport facilities. This is the application that has been amended to remove some of the units immediately to the north of the site access.

Not part of this planning application is the erection of a large cold store building currently under construction that was granted planning permission in 2008 and the applicants intend to undertake the development for what is stated to be a specific end user. The location of this building is shown on the drawings accompanying the planning applications as land within the control of the applicants.

The materials of construction would be the same or similar to those used to construct the extensions to the original hanger building; these are a grey colour.

Applicants supporting information

The applications as amended are supported by the following documentation:

- Revised Planning Statement – February 2013

- Landscape and Visual Impact Assessment - December 2010.
- Ecological Assessment & Protected Species Survey - August 2011.
- Flood Modelling Study - August 2012 and Revised Flood Risk Assessment - September 2012.
- Transport Assessment - August 2011 and Technical Note – Traffic Impact - July 2012.
- Revised Framework Travel Plan - July 2012.
- Noise Levels and Predictions - April 2011.
- Tree Report - June 2009.
- Revised Design & Access Statement - January 2013.

A summary of the issues in each document is contained in the Planning Statement and the recommendations for conditions will be summarised below but the full documents are available for inspection on the working files.

Following discussions with the applicants about the objections raised, the applications have been further amended to include acceptance of a condition requiring mounding and acoustic fences along the entire west boundary of the operational areas of the site.

The Planning Statement

The applicant reaffirms that the company continues to expand since its move to Foston. When the application was submitted it directly employed some 153 people. It is contended that the development would create another 140 - 150 jobs.

The company has won numerous contracts to supply logistic services in England and Wales to several companies involved in the tyre manufacturing business. It is also involved in contacts with food manufacturers in particular Nestle for whom the company currently provides part of Nestle's logistic requirements.

The company has an immediate requirement for some 30,000sqm of warehouse floor space that currently cannot be met at the site. In order to minimise lorry journeys the company intends to consolidate its operations at Foston. The buildings would be used predominantly by ATL, although a limited number of other occupiers would have a close working relationship with the company. The company turnover has increased in the past 3 years from £5m in the year to 31 March 2010, to £12m over the 9 months to 31 December 2012.

It is considered that planning policy nationally, regionally and locally supports the grant of planning permission for both planning applications. The NPPF supports development that is supportive of the rural economy as a matter of principle and the applicants seek support for this view by reference to Paragraphs 17, 31, 32 & 35 of the NPPF.

The Regional Plan (Policy 20) and Economy Policies 1, 4 & 5 support the principle of economic activity subject to other environmental impacts being considered acceptable such as noise, access and transportation issues that form a requirement of Economy Policy 8 in the Local Plan.

The applicant asserts that the technical reports both as submitted and as revised in support of the application provide no overriding considerations that prevent a successful development being implemented. The proposals are submitted through two planning

applications, firstly, in terms of the application for full planning permission, to provide for immediate expansion needs at the site. Secondly, the outline planning application seeks to form the basis for a programmed development of the remainder of the applicant's ownership in a manner that is consistent with the Development Plan and other planning strategies within an overall framework for the assimilation of the development into its surroundings. The mitigation measures are set out in conclusions reached in the various survey reports.

The applicant asserts that the contents of those reports and the various recommendations therein provide sufficient safeguards for the Local Planning Authority to be satisfied that the development can be undertaken without significant detriment to the countryside, local residents and the wider environment. The development would be in accord with the provisions of the Development Plan as set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004, which states that planning permission should be granted unless material considerations dictate otherwise. The development accords with the economy objectives as set out in the NPPF in the quoted paragraphs and thus the policies of the Development Plan continue to carry significant weight in the determination of the planning applications. The applicant therefore contends that planning permission should be granted subject to conditions as recommended in the various Technical Reports that accompany the planning application.

The applicant is willing to undertake the payments to the Highways Agency for improvements to the Sudbury interchange on the A50TR as set out in the Transport Assessment.

The Design and Access Statement

This document sets out the design process for each of the applications and contains much of the information set out in the 'Site and its Surroundings' above. It confirms that the buildings will reflect that appearance and character of those already on the site

In particular it is asserted that the boundary to Hay Lane forms a substantial block of woodland previously used as a nursery, which is subject to the Tree Preservation Order that would mitigate the impact of the proposals on dwellings on Hay Lane. To the north of the woodland an existing open break alongside Hay Lane will be the subject of a previously approved intensive landscaping based on a mound incorporating a 1.8m high acoustic fence on its apex. This would be planted to form both a visual and physical barrier between the ATL Ltd's premises and the public highway that also has scattered housing alongside it on the west side. The northern limit of the applicant's ownership comprises a parcel of land where planning permission has been granted for the erection of a cold storage building.

In terms of landscape significance, an overriding factor is that this site occupies the lower part of the Dove Valley, although it is well separated from the river itself. The overall character of the area, including that containing the Dove Valley Park, is of generally flat land, rising slightly towards the north, interspersed with woodlands, hedgerows and a limited amount of housing, predominantly once associated with agriculture and similar uses.

Employment sites now dominate land east of the site; and these also continue in a northerly direction along the west side Woodyard Lane for some distance. Hay Lane is

predominantly rural in character and it has the protected woodland that separates it from the houses on the west side of Hay Lane.

It is asserted that whilst the proposals intrude marginally on the area containing the Tree Preservation Order, the proposals provide for a substantial reinforcement of screen planting in the area to reflect its established character. The previously permitted screen mound on the open land on the west boundary together with substantial landscaping occupying the break to the north of the woodland will be provided in accordance with proposals that have already been approved.

The Landscape and Visual Appraisal

This discusses the site and its surroundings, provides information on the documents used and references to inform the appraisal and examines the policy background in terms of landscape impact. Having done that the document assesses the impact of the development from 3 localities – Hay Lane, Uttoxeter Road and Woodyard Lane.

Hay Lane – the assessment looks at the existing situation, the proposed mitigation measures, which in this case involve the installation of a landscape bund and landscaping on the open land to the north of the Hay Lane frontage. Here the assessment states that the impact during construction on residents and road users would be of minor significance and that after completion the impact would be nil in terms of its significance.

Uttoxeter Road – There are no houses impacted by the proposals, a landscape bund would be constructed along the frontage that would help to screen the development areas once established and planted with the recommended species. It is stated that there would be a minor impact on this road frontage during development with no significant impact once the development is complete.

Woodyard Lane – The view is of predominantly commercial operations with no dwellings directly affected by the development. Again it is contended that the development phase of either development would be minor with nil significant impact once the development is completed.

The reason for these conclusions is the initial and longer-term impact of the strategic landscaping scheme already permitted as a part of the 2008 planning application, as now amended. It has been refined and would provide, in the applicant's view, substantial screening from those parts of the site that currently have no screening. In the light of this, the landscape and visual impacts of the development would be mitigated.

Ecological Assessment

The ecological assessment identifies a number of issues relating to plant species and habitat that may need to be included as part of a mitigation scheme. A potential badger run through a part of the site was identified and a part of the site may be used for foraging by badgers.

No evidence of bats using buildings either as a roost or maternity roost was found in any of the existing buildings on the site but there is evidence of bats foraging along the hedges within or on the edge of the site. Of the 5 hedges found on the site, 4 would be

retained within the development. There is potential for bats to roost in some of the trees on the site that have cavities or splits in them. If trees were to be felled, then they would require inspection prior to felling works to trees. It is an offence to disturb bats when undertaking development without first obtaining a licence from Natural England. The provision of Bat boxes is recommended to mitigate any potential loss of habitat. Careful control of lighting in the areas around the borders of the site is necessary.

Great Crested Newt and other amphibians – no great crested newts were found during survey work, the nature of the watercourses through the site would preclude their use of that feature. Other amphibians may be disturbed during development and they would benefit from relocation during the development.

Barn owls use a building and a tree within the site for roosting, rather than breeding, and use the scrubland within the site for hunting. Other bird species have been identified in and around the site some of which are on the red and amber lists as vulnerable species. Tree planting and alternative habitat creation are proposed that would help to mitigate the impact of the new built development.

Flora – Golden dock has been identified on the site and this is a rare Derbyshire plant. It can be relocated to other parts of the site where wetland habitat is proposed. The development proposals would remove its existing location.

Tree Survey and Landscape Proposals – A tree survey accompanies the planning application and recommends various trees to be removed from the area of the TPO and others be retained but subject to remedial works to improve their long-term viability. The impact of the removal of the trees is to provide an additional area of development. The areas adjacent to the retained trees and planting would be roadways where the site adjoins the TPO part of the site.

The submitted proposals comprise replacement tree planting in the area of the TPO, beefing up of retained hedges on the site, individual tree and shrub planting within the site and confirms details of the landscape mound and associated landscaping on the currently open field on the north west corner of the development.

The landscape proposals that accompany the planning application include a previously permitted scheme in respect of application no 9/2008/0707 that is included for information and would not form a part of either planning permission should Committee be minded to grant planning permission.

The Flood Risk Assessment – The Assessment identifies the local water- course, (the Foston Brook) and drainage channels that feed into it and ultimately it flows into the River Dove at Scropton. The site itself is located within Flood Zones 1, 2 & 3a albeit that the proposals would effectively reclassify the site as lying within Flood Zone 1.

The amended drainage strategy, informed by the flood modelling exercise states that in order to address the potential flooding arising from increased impermeable areas, it is proposed that surface water flows should be controlled within the site by the use of strategically placed hydro brakes or similar control structure throttles. The new surface water drainage strategy aims to reduce flows from the site from some 305l/s from the existing hard surfaced areas to 143.1l/s from the site when completely developed (arising from the full and outline planning applications). These flow rates have been calculated based on a 1 in 100 year storm allowing for climate change. It is asserted

that the land drainage system in the area would be relieved in the event of such a storm once the drainage strategy has been implemented.

The discharge rate of 143.1l/s is derived from four distinct drainage areas within the site that have been individually assessed by the consultants. The main current issue that is addressed is the inability of an existing culvert to accept flows that are generated both within the application sites and the wider area. As a part of the drainage strategy, a larger culvert is to be installed to allow water to flow to the watercourses rather than backing up and causing overland flows at times of heavy rainfall. The installation of the overall drainage strategy needs to occur before other elements of the applications are implemented.

The various elements of the drainage strategy would remain in the control of the applicant company that would be responsible for the future maintenance of the system.

Foul Water can discharge direct to the foul water sewer that passes through the site; Severn Trent Water has confirmed this to the applicants.

Transport Assessment – reference to this is made in the Planning Statement above. The conclusions in this statement are for the provision of an additional footway along Woodyard Lane to Uttoxeter Road to facilitate access to the local bus stop; the upgrading of the bus stop to include bus timetable information; the provision and subsequent implementation of a Travel Plan, details of the plan accompany these applications and provide contributions towards the improvement to the Sudbury junction on the A50 - £9,490.13 for the full planning application and £20,838.46 in respect of the outline planning application. Subject to these mitigation measures the applicants contend that the impacts of the developments would be compensated for or mitigated to a point where planning permission could be granted.

Noise Assessment – The noise assessment asserts that the major noise source in the locality is the A50 and that for the greater part of the day activities on the application sites is likely to be difficult to discern. The report acknowledges the planning permission for the cold store may have an impact on the occupiers of Lawn Farm but that the mound and acoustic fencing constructed in the field to the west of the site would help to mitigate that impact. Overall, the applicants conclude that the development could be undertaken without material noise impacts on the locality. However in response to the Environmental Health Manager comments, the applicants have agreed that a bund and acoustic fencing should for part of the application.

Planning History – since ATL moved onto the site:

2003/0024 – extension to the original hanger building and two loading bays

2004/1311 – further extension to the original hanger and offices.

2006/0845 – retention of concrete roadway

2006/1387 – warehouse and office + a 2008 amendment

2007/0135 – conversion of poultry units to storage and distribution

2008/0938 – conversion of bungalow to offices

2008/0707 – storage building and access roads

Responses to Consultations

The applications as originally submitted attracted a holding direction from the Highways Agency and a request for further details from the Environment Agency. As a result the application has been delayed. The consultees have been given 21 days to comment on the amended applications and where a response has been received that is reported below. Otherwise the response to the original consultation is reported. In the main the comments received relate to both applications but where the comments differ they are also reported.

Foston and Scropton Parish Council unanimously voted to object to both planning applications. The reasons for objection reflect the objections summarised in the 'Responses to Publicity' below but the Parish Council objections are summarised as follows:

- The previous limits to the hours of operation should be retained in place and 24-hour operation refused.
- The size and scale of the development are out of character with the area.
- Noise and light pollution would affect nearby residents as well as fumes from lorries operating on the site.
- The impact on the local highways would be unacceptable and detrimental to road safety. Other lorry operators have applied for a licence to operate from the ATL site and there would be 100 tractor units and 130 trailer units based on the application sites
- This is a remote location and the operatives would travel considerable distances to get to work, the use of public transport is unfeasible.
- Land drainage is a known and considerable problem in the area; large amounts of new buildings and hard surfacing would adversely impact the local drainage system on Woodyard Lane and Watery Lane.
- Screening of the site permitted in previous applications and not yet implemented, appears not to have been proposed in these applications.

The County Highway Authority requires the provision of a footway between the site entrance on Woodyard Lane and the pavement on the north side of Uttoxeter Road with a minimum width of 2.0m. This footway would also require deterrent kerbing to reduce the risk of lorries parking on the footway whilst waiting to access the site. In terms of access the existing accesses on Woodyard Lane would require 2.4m x 103m visibility sight lines and all accesses to Hay Lane require stopping up. The car parking provision is considered inadequate with little or no provision shown for the existing complex. Subject to assurances from the applicants about the operation of the submitted travel plan, it is considered acceptable.

The drainage proposals are considered acceptable to the County Highway Authority subject to installation and proper maintenance of the system. It agrees with the assessments of the Environment Agency and the Council's Land Drainage engineer regarding the impact of the proposed drainage works on surface water flows south of the A50.

The Highways Agency has issued holding directions preventing the applications from being determined. The Agency is now satisfied that subject to the agreed financial contributions for each of the applications being incorporated into a Section 106 agreement it has no objection to either of the applications. However, it has issued a

further holding direction to enable it to ensure that it can be assured that the 106 Agreement meets its requirements.

The Environment Agency having considered the all the new information has raised no objection to the development provided that the drainage scheme is implemented in accordance with the submitted information and the details of the type of drainage equipment to be installed being approved prior to the works being undertaken. It has also confirmed that the flows into the Watery Lane ditch south of the A50 would be reduced if the new drainage scheme was implemented.

Severn Trent Water has no objection or comment to make on the application.

The Derbyshire Wildlife Trust confirms that whilst the surveys have been undertaken to the appropriate standard, there is a lack of mitigation measures outlined in the documentation but conditions are recommended to ensure proper mitigation is achieved. The mitigation should seek to ensure that the replacement rough grassland should be provided and the gold dock should be transplanted into that new area. It should also contain measures to ensure that roosting/nesting owls are not driven away as a result of the development in accordance with the requirement on the Local Planning Authority to ensure that protected species do not suffer loss of habitat. A habitat management and monitoring plan for all new and retained treed and open areas should be provided before the development is commenced. Conditions are recommended to achieve these requirements as recommended by the Derbyshire Wildlife Trust.

The Development Control Archaeologist having considered ground conditions and developments in the area has no requirement for an archaeological investigation prior to the development being commenced.

The Environmental Health Manager notes the contents of the Noise Assessment and subject to his recommended conditions to mitigate any potential noise impacts, the noise issues are considered are appropriately mitigated. The Environmental Health Manager has had regard to the 24-hour operation of the site in conflict with the current recommended operating hours applied to parts of the site and this is the reason that additional noise mitigation has been requested. Subject to the implementation of these conditions and the maintenance in place of the acoustic fence, the development is considered acceptable.

There is evidence of contamination at or around the site that requires investigation and the Environmental Health Manager recommends the standard conditions for this.

Crime Prevention Officer confirms that previous comments will continue to apply where it is considered that the 24/7 operation would deter criminal activity due to a permanent presence on the site that should if possible extend across the whole site. It has a well-defined boundary but there are areas where existing hedges and fences may require reinforcement. The wooded area is of some concern due to it providing cover for potential criminals.

The Council's Land Drainage Officer has examined the new drainage scheme and subject to the proper implementation of the surface water drainage details, the scheme is considered acceptable provided that it is properly constructed and maintained.

Responses to Publicity

The original objections are summarised below, subsequent objections will be summarised after those where there are new objections beyond those first summarised.

Objections to the applications as originally submitted consist of 22 responses to both applications. The objectors make the same points to both applications. 15 of the letters in respect of both applications take a standard format. The objections can be summarised as follows:

- a) Planning Policy dictates that where there is an adverse impact on the local environment then planning permission should be refused. Policy Environment Policy 1, Employment Policy 1, 5 & 6 – the reasons why these policies apply are set out individually below.
- b) The proposals would result in 24-hour working on a site that has previously had a limitation on the hours of operation in the north and west parts of the site (9/2008/0707 refers). That permission and a previous one granted at appeal were only granted as the hours of operation could be controlled this type of control should be continued. Previous planning permissions have included conditions limiting operating hours. In the light of this 24-hour operation could be used as a reason for refusal with little fear that the refusal could be overturned at appeal.
- c) The removal of trees in the TPO would significantly increase the views into the application site for residents on Hay Lane. The trees are only being removed to facilitate extra development. The landscaping proposed in the SW corner is totally inadequate as there are several dwellings within a few metres of this boundary. The removal of trees along this boundary is not minimal but represents about 29% of the wooded area and removal should be resisted.
- d) Any new dwelling on the Woodview site would be subject to excessive noise. Indeed even if a new dwelling was not put on the site, the dwellings on Hay Lane would suffer increased noise as the internal site road is close to the west boundary of the site. The proposal involves the loss of residential land at Wood View
- e) The bunding and acoustic fencing along the west boundary is necessary to protect residents on Hay Lane. A minimum height 4.5m is required along the north and east boundary to Wood View to protect residents on Hay Lane. That landscaping bund and fence imposed on the 2008 application is not sufficient to mitigate this much larger scheme, as the proposed roadway would be a key source of noise. 24-hour operation means that acoustic mitigation is even more important. Noise levels on the existing site are already a problem without the extra development.
- f) The buildings are not all required for the operators' own use so the business cannot benefit from the policy that allows the expansion of firms for their own use. The additional floor space of some 26,772sqm, for both applications, would have a significant impact on the character of the countryside and the locality. Foston is not the place for such large-scale development as there is a lack of locally available labour and the area has poor transport links. It is identified as a village of character in the Needwood and South Derbyshire Claylands and development would have a significant impact on this gateway to the village.
- g) The development would significantly increase the amount of traffic on the highways particularly at peak times (144 movements in 2 hours on and off the site)

- h) The operator already has permission for a large warehouse on the north part of the site and this should be built before any other permission is granted.
- i) Industrial activity would be brought closer to Hay Lane to the detriment of the occupiers of the adjacent dwellings.
- j) The amount of lighting proposed is considered excessive for this rural, area lighting on the site is already a problem.
- k) It would be inconsistent and perverse to grant planning permission on the basis that the developments are contrary to planning policy for the reasons that the principle, impact on the countryside, residential amenity would be irreparably damaged, highway safety and flood risk all dictate that planning permission should be refused.

A further 44 letters have been received objecting to the development. The additional objections to the amended scheme can be summarised as follows:

- a) Development of a green field site is out of character with the locality.
- b) The whole of the site has never been a part of RAF Church Broughton site as is claimed by the applicants.
- c) The majority of the 'new' jobs on the site would be transferred from other locations causing commuting by car.
- d) Flood risk remains a concern and there would be lots of additional flows from the increased paved areas.
- e) The noise survey does not take account of the sudden loud noises that occur at the site that are regularly heard up to ¼ mile away in Foston and these noises startle horses.
- f) Bunding/acoustic fencing proposals remain absent potentially causing detriment to local residents.
- g) There remains a request that a condition be imposed restricting working hours as has occurred on past permissions.
- h) Drivers will naturally take a short cut to the site through Foston village and ATL have no means of controlling this use of the highway. The increased use of the road by heavy goods vehicles will cause danger to residents

Development Plan Policies

The relevant policies are:

Local Plan: Employment Policies 1, 4, 5 & 8; Transport Policies 6 & 7.

National Guidance

The NPPF - Paragraphs 17, 29, 31, 32, 35, 186, 187 & 215.

Planning Considerations

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

- The Development Plan.
- Access Considerations
- Noise/lighting Considerations
- Drainage implications
- Landscape and Ecology considerations.
- Crime prevention.

Planning Assessment

The Development Plan

The NPPF, para 19, indicates that *“significant weight should be placed on the need to support economic growth through the planning system”*.

Para 28 says that planning authorities should support economic growth in rural areas. It says that local plans should *“... support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings.”*

In the light of the above it is considered that the provisions of Local Plan Employment Policy 1: Existing Industry continue to carry weight in the decision making process in accordance with para 215 of the NPPF. This allows for the expansion of industrial and business uses on, or adjacent to, their existing sites, provided that the proposal is not detrimental to the character of the locality or residential amenity and does not cause environmental or traffic problems.

The proposal, as described in the application form, is for *“the extension of the ATL logistics / warehousing depot”*. In the Revised Design and Access Statement, dated January 2013, para 6 indicates that the proposals *“... relate to the redevelopment of the area comprising the former turkey farm, the addition of new buildings as extensions to the existing substantial warehousing and offices, the construction of new buildings required to support client functions and proposals that will ensure the sustainable growth of the Company in the medium to long term.”*

The proposal includes new office development. However, since the office element of the proposal would form part of the extended logistics and warehousing depot, it can be considered to be ancillary to the B8 warehouse and distribution uses. Therefore, it is not considered appropriate to apply the sequential test in this instance as can be required in para 24 of the NPPF.

The proposal is therefore considered to be in accordance with the NPPF and Local Plan Employment Policy 1, subject to it being acceptable in terms of the impact on the character of the locality, residential amenity and environmental and traffic considerations. These considerations are now discussed below.

Access Considerations

The pedestrian and vehicle access to the site and the local bus route can both be achieved either within the site boundaries or on land within the highway and subject to the recommended conditions the County Highway Authority is satisfied that the development is acceptable from that point of view. The applicants note the County Highway Authority concerns about the lack of parking provision but their objective is to meet the known requirements of the application site as a whole rather than meet a theoretical need set as set out by the County Highway Authority.

There is a balance to be struck in the consideration of the application as to whether the perceived lack of car parking provision warrants a recommendation of refusal. There is room on land within the control of the applicant to accommodate parking requirements

from the part of the development that is subject to the full planning application. Refusing that application would be difficult to sustain at appeal as the applicants would be able to point to land in their control to meet any overspill of parking.

Car parking provision on the 'outline application site' would be subject to further assessment at the time of the reserved matters application and if it were demonstrated that additional parking provision was required, the siting of the buildings within the layout could be amended to accommodate this.

Access and parking is a requirement the condition requiring the submission of reserved and other matters. It is to be remembered that the illustrative layout of the site shown in the outline planning application is for information only access and layout are the only matters to be determined at this stage. The appearance of the buildings is reserved for subsequent approval.

Objectors have expressed concern about lorries accessing the site through the village. It is true to say that there is nothing stopping east bound lorry traffic on the A50 using the public highway passing through the village to access the site. However, it is understood ATL has control over its own fleet and equipment is installed to allow the fleet manager to monitor the route taken by each of the lorries in its fleet.

Other operators are given site access requirements and are directed towards the A50 interchange at Dove Valley Park but it should be stated again that the applicants cannot control which route other drivers choose to access the site. But it is only those drivers arriving from the west on the A50 that would be able to use the minor access to Foston Village.

The applicants have accepted the required payments of the Highways Agency as reasonable and the amounts for each application are set out in the recommendations below and thus the Highways Agency has no objection to the proposals. The remaining holding objection is not an obstruction to the Authority to determine whether it is mindful to grant permissions and the recommendation below is for permission to be withheld pending an appropriate undertaking being received. The Highways Agency will be consulted on the draft undertakings when received. As the Highways Agency is satisfied that the impact of the development can be accommodated on the A50 Trunk Road subject to the receipt of monies towards the improvement of the Sudbury Junction has no objection to the development.

Noise/Lighting Considerations

The noise mitigation and crime prevention comments have a degree of similarity in that the crime prevention officer is looking for the boundary fencing to be boosted. The Environmental Health Manager seeks additional bunding and acoustic fencing alongside the proposed site access road on the east side of the woodland near the west boundary of the site. The applicants have accepted that extra screening/fencing is necessary and have agreed that the submitted landscaping scheme requires amendment. A condition to this effect is recommended.

The other significant objection raised by objectors is the 24-hour operation of the site. The Environmental Health Manager's requirement for the extra bunding and fencing is designed to take account of that operating period.

The presence of this extra screening would go some way to meeting the objectors concerns about noise and visual impact but is unlikely to result in the objections to 24-hour operation being withdrawn and the perceived noise implications arising from that.

It should be noted that the Noise Report accompanying the planning applications did not require the any extra mounding/screening as now proposed. It is as a result of comments from the Parish Council and community, that the applicants have agreed to provide the extra screening as a means of mitigating the visual and perceived noise impacts referred to by the Parish Council and objectors

Members will need to balance the noise and lighting objections against the weight and importance to be afforded to the NPPF advice with regard to boosting the local economy.

Objectors' comments about the lighting scheme currently under consideration are accepted as the proposals illustrated clearly relate to an earlier evolution of the proposals. A condition requiring the submission of an up-to-date lighting scheme is recommended should members resolve to grant the planning permissions.

Drainage Implications

Members are asked to note the applicants submissions in respect of surface water flooding, the objections raised by the Parish Council and the community with regard to flooding issues, the response from the Environment Agency and the Council's land drainage officer to the latest drainage strategy all as summarised above.

It is clear from local representations and from the concern expressed by the Environment Agency in response to the application as originally submitted, that there is a current surface water flooding issue not just from this site but also in the wider area. The Environment Agency required further assessment of the flood implications for the wider area including the land south of the A50 where the surface water from this area ultimately drains prior to entering the Foston Brook and thence the River Dove. The Land Drainage officer is aware of flooding in the wider area where this surface water would discharge, if no mitigation measures were put in place.

The crucial elements of the submitted scheme are the proposals to retain water within the application site; not just from the site but the wider area around it where the submitted flood model identifies that surface water would flow towards and across the application site. The proposals are now to gather this surface water at times of heavy rain and retain it within the site to be released in a controlled manner into land drainage ditches that adjoin the site. The proposals also include upgrading existing culverts and ditches within the site to assist in the control of waters generated or crossing the application sites.

It will be noted that currently, water draining from the site and wider area to the local land drainage system is estimated within the Flood Risk Assessment at 315l/sec whereas the controlled flows to the ditches adjacent to the application sites would be limited to 143l/sec. The current situation is that at times of heavy rain the local drainage ditches are unable to cope and surface water flows towards Foston village and the Hay Lane as well as affecting Woodyard Lane.

The proposed scheme would ensure that these surface water flows are retained in the site boundaries and then released in a controlled manner to the local drainage system and away from Foston village and Hay Lane.

These controlled flows would ultimately discharge to a culvert beneath the A50, this emerges on the south side of the A50 and Watery Lane and discharges to a land drainage ditch that runs parallel to Watery Lane as it goes south towards Scropton. The Environment Agency is satisfied that the controlled flows from the development site should reduce the amount of water arriving in Watery Lane ditch at times of heavy rain and reduce the propensity for that ditch to surcharge at such times of, thus reducing the potential for the flooding of Watery Lane, a view shared by the County Highway Authority as Lead Local Flood Authority and the Council's Land Drainage Officer.

Whilst the concerns/objections of the Parish Council and community on land drainage issues are noted and understood, the development proposals now before the Committee including the surface water mitigation scheme, adequately address these concerns/objections provided the scheme is implemented as proposed and thereafter maintained within the application site. Responsibility for maintaining the wider land drainage ditches rests with riparian owners and/or the County Highway Authority.

Conditions are recommended to ensure that the new surface water drainage system is installed for both of the application sites prior to the occupation of the buildings for which full planning permission is sought. A condition requiring the submission of an on-site maintenance scheme of the system is also recommended such that the outfall discharge rate is maintained for the duration of the development.

In conclusion, the amended proposals address surface water drainage issues to a point where consideration can be given to the grant of planning permission.

Severn Trent Water has no objection to the applications and foul water drainage considerations are not at issue for these applications.

Landscape and Ecology Considerations

The buildings would reflect that appearance and character of those already on the site albeit that the smaller units will not have the height of the main buildings on the site. The appearance of the buildings proposed in the outline planning application on the Turkey Farm is not part of this application but it is anticipated it would have a profile similar to the other large buildings on the site.

Members will note the objections to the development on the issue of noise and the complaints that the development lacks any form of screening or noise protection along the west side of the area proposed for development. This is an issue that has caused concern to the Environmental Health Manager and as a side issue to the loss of trees and screening along this boundary raised by the Tree Officer. The Environmental Health Manager welcomes the provision of the mound and acoustic fence as does the tree officer in that both will afford the opportunity to increase screening of the developed site by virtue of the fence and an area of raised ground into which trees could be planted to provide an earlier screen to the area that would be developed. A condition is recommended on both applications to require the submission of details of the mounding and fencing as a part of an amendment of the submitted landscaping scheme to take account of these changes at the boundary.

The Council's Tree Officer has examined the woodland and noted that there are large ancient Oak trees within the woodland order area that are worthy of full TPO protection. There are numerous birch, hawthorn, elm, sycamore and willow several of which have fallen or have major defects. If left to its own devices the area would develop into natural woodland.

The application proposes the removal of some trees in the woodland area, (excluding the oak trees), and this would change its character from a natural unmanaged woodland into a smaller fully managed woodland incorporating new specimens (within a minimum 5-year aftercare plan). It is acknowledged that the removal of the trees and the time taken for the new planting to become established would result in a significant change to the outlook from the houses on Hay Lane. However, the new planting scheme has been drawn up to provide an effective screen which, together with the extra mound and fence, has the potential, once established, to provide a pleasant outlook for residents, albeit not the dense wild woodland it currently is.

The recommendation is to approve the felling, approve the proposed planting, with an aftercare plan, and once complete the woodland area TPO should be amended to one with individual trees and groups.

As stated above, the extra mounding and fencing proposed is proposed as a part of the noise mitigation scheme has the potential to provide a permanent screen for residents on Hay Lane and the planting of the mound would help to make the effectiveness of the tree screen more apparent at an earlier stage.

The submitted landscaping scheme would require amendment to reflect the **extra** screen mound and fence and a condition to this effect is recommended along with a condition requiring the long term management of all landscaped areas is recommended. The consideration of the impact of these works on the visual amenity of the area must be carefully weighed against the need for economic growth in the district as promoted by the NPPF.

The Derbyshire Wildlife Trust requirements for conditions relating to the installation of the bird/bat boxes, the submission of a management regime for the aftercare of the landscape and habitat areas are recommended. Consideration of the amendment of the submitted landscape scheme would include an area of rough grassland where the golden dock and other plants can be transplanted to maintain the biodiversity of the area.

These conditions should ensure that the wildlife and ecological issues arising from the development are adequately addressed.

Crime Prevention

In respect of the Crime Prevention Design officer's comments regarding the wooded area, the provision of the mounding and fence should make that area more secure. If permission were granted, a further consultation with the crime prevention team would be undertaken on the revised landscaping/noise attenuation plans.

Overall Conclusions

Consideration of this application has been long and complicated but officers are now in a position to make a recommendation for both planning applications.

Consideration has been given to the need for an EIA but the material submitted in support of the planning applications is sufficient to assess the environmental impacts of the proposals and address any of the significant impacts that would arise from the development. Based on these facts that there is an existing storage use established on the site and that there are existing business uses around the site, an EIA is not required for these applications and screening opinions to this effect have been placed on the Part 1 record.

Having regard to all the above material considerations, the application is considered to accord with the advice in the NPPF in respect of economic development in rural areas.

The provisions of Employment Policy 1 continue to apply to the consideration of these applications as it is in accord with the provisions of the NPPF. Thus having considered the implications arising from the grant of planning permission for the development as set out in Employment Policy 1 and the provisions of Policy 20 of the Regional Plan, the development is considered to accord with the provisions of the Development Plan.

It is considered that the concerns of the Parish Council and objectors about the impact of the development on the application site and the wider area have been addressed in the information and drawings now accompanying the applications and for the reasons set out in this report, planning permission is recommended for both.

Recommendation

Subject to the receipt of a signed unilateral undertaking to the sum of £9,490.14 in respect of improvements to the A50 interchange east of Sudbury, **GRANT** permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the following list of supporting documents and plans:

Planning Statement - (John Church Planning Consultancy Ltd) - February 2013, Revised Design & Access Statement (John Church Planning Consultancy Ltd) January 2013, Landscape and Visual Impact Assessment (Peter Eaton & Associates Ltd) December 2010, Ecological Assessment & Protected Species Survey (Arbor Vitae Environment Ltd) August 2011, Flood Modelling Study (Thomas Mackay Environmental Solutions (August 2012) and Revised Flood Risk Assessment (M-EC Ltd) September 2012.

Transport Assessment (Mewies Engineering Consultants Ltd) August 2011 and Technical Note - Traffic Impact (MEC Consulting Engineers), November 2012, Revised Framework Travel Plan (Mewies Engineering Consultants Ltd) July 2012.

Noise Levels and Predictions (Noise Suppression (Chesterfield) Ltd) April 2011,
Tree Report (Bradley Environmental Consultants) June 2009.

Drawings: -

Overall Development Plan -12914-01N, Proposed Site Section - 12914-02C,
Planning Phase Drawing - 12914-03E, Proposed Road Elevations - 12914-04C,
Existing Site Plan - 12914-05, Full Planning Outline on Site Plan - 12914 07D,
Unit 16, Floor Layouts - 12914-12, Unit 16, Elevations - 12914-13,
Unit 18, Floor Layout and Elevations -12914-14, Proposed Drainage Layout
(Sheet 1 of 3) - 12914-100/S1D, Proposed Drainage Layout (Sheet 2 of 3) -
12914-100/S2F, Proposed Drainage Layout (Sheet 3 of 3) - 12914-100/S3C,
Drainage Details - 12914-101, Drainage - Overview of full site - 12914-102B,
Landscape and Structure Planting - DRG/ATL/WLF/JC/PEA/03/DHB, Landscape
and Structure Planting - DRG/ATL/WLF/JC/PEA/04/DHB, Tree Survey (TPO308-
208SDCC) Tree/Hedge Removal - ATL/WLF/JC/PEA/05/DHB.

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

3. Notwithstanding the submitted information, details of a lighting scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be used to illuminate the site for the duration of the development and shall be maintained in accordance with the manufactures specifications. The submitted scheme shall indicate the position of all light sources and shall demonstrate that the lighting does not spill outside the site boundaries nor on the landscaped and open areas outside operational areas and the night sky.

Reason: The submitted details no longer reflect the arrangement of the site layout and further details are required to ensure that the scheme only illuminates those areas necessary to the operation of the site.

4. Before the development is commenced, the landscaping details shown on Drawings DRG/ATL/WLF/JC/PEA/03/DHB & 04DHB shall be resubmitted to the Local Planning Authority to illustrate the construction of a landscape mound along the west side of the operational area. The landscape mound shall be supplanted by an acoustic fence 1.8m high at its apex along its whole length but shall avoid the root area of any ancient oak tree identified on Drawing ATL/WLF/JC/PEA/05/DHB and contained within the area of SDDC TPO 208. The submitted scheme shall also contain proposals for the creation of an area of rough grassland to replace that lost to the development and shall include a schedule for the transplanting important plant species to that area, most notably the Golden Dock. The rough grass area shall be thereafter be maintained as a species habitat for such plants for the duration of the development. A schedule of landscape maintenance for all landscaped areas shall accompany the submitted revised landscape scheme and all landscaping shall thereafter be maintained in accordance with the approved details.

Reason: To provide an acceptable visual and acoustic screen and replacement habitat to the proposed development to the users and occupiers of properties on Hay Lane in the interests of mitigating the impact of the new built development

on the site and the 24 hour operation of the site and to ensure that important native plant species are retained in the locality.

5. Before the development is generally commenced the area of rough grassland required by condition 4 above shall be formed and plants within the existing rough grassland identified in the Ecological Study accompanying the application shall be relocated to this new area of rough grassland. The area shall thereafter be maintained in accordance with the approved scheme of landscape maintenance for the area. Thereafter all other planting, seeding or turfing comprised in the approved details of landscaping required by Condition 4 above shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area and to ensure that the replacement habitat and landscaping is established in accordance with good practice.

6. All external materials used in the extension of the warehouse and construction of Unit 18 to which this permission relates shall match those used in the existing warehouse building in colour and profile unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the locality generally.

7. Before the development is commenced details for the provision of bat and bird boxes including provision for barn owls, to be located within the site or within the structure of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and the bird and bat boxes shall thereafter be retained in position for the duration of the development.

Reason: In order to ensure that existing habitat in order to maximise the opportunity to encourage wildlife habitat creation within the site. Reason: Evidence of barn owls roosting at the site have been identified in the ecology report accompanying the application. Barn owls are specifically protected under Schedule 1 of the Wildlife and Countryside Act 1981 and the condition is imposed in accordance with Section 25(1) of the Act as an expedient provision to conserve a protected species.

8. Further to Condition 7 above and 30 days before any development is undertaken on the application site a barn owl roosting/nesting box shall be provided within 200m of the application site boundary in a location to be agreed in writing by the Local Planning Authority. The barn owl roosting/nesting box shall be retained in place for a minimum of 30 days after the permanent provision required by Condition 7 above has been put in place.

Reason: Evidence of barn owls roosting at the site have been identified in the ecology report accompanying the application. Barn owls are specifically protected under Schedule 1 of the Wildlife and Countryside Act 1981 and the condition is imposed in accordance with Section 25(1) of the Act as an expedient provision to conserve a protected species.

9. No building or construction work on the site shall be commenced until evidence has been provided to the Local Planning Authority that no birds are nesting in any of the buildings to be demolished immediately prior to the works commencing.

Reason: Evidence of barn owls roosting at the site have been identified in the ecology report accompanying the application. Barn owls are specifically protected under Schedule 1 of the Wildlife and Countryside Act 1981 and the condition is imposed in order to allow the Local Planning Authority to discharge its obligation under Section 25(1) of the Act.

10. Prior to the occupation of either Unit 18 or extension to the existing warehouse hereby permitted, the surface water drainage scheme set out in the Flood Modelling Study (August 2012) and the revised Flood Risk Assessment (September 2012) and illustrated on Drawings 12914 -100/S1D, 100S2F, 100S3C, 101 and 102B shall be implemented in accordance with the submitted details such that the surface water outfall from the development is limited to 143.1l/sec and the alterations to the existing culvert as listed in the Flood Risk Assessment are undertaken with the exception of the requirements of Condition 11 below.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

11. The development hereby permitted shall not be commenced until such time as the actual scheme to improve the existing surface water disposal system has been submitted to, and approved in writing by, the local planning authority. The surface water drainage scheme shall include

A detailed assessment of the drainage items to be installed and be accompanied by full calculations proving their suitability along with a layout showing their positions and levels on site.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and reduce flooding to the proposed development and future users.

12. Before the development is commenced details of a footway between the site access on Woodyard Lane to the footway on Uttoxeter Road and thence to the bus stop on Uttoxeter Road together with details of the improvements to the bus stop both as set out in paragraph 10.6 as mitigation measures in the Traffic Impact Assessment shall be submitted to and approved in writing by the Local planning Authority. The submitted details shall demonstrate a minimum footpath width of 2m and show the retention of deterrent kerbing to the whole of the Woodyard Lane frontage. The submitted details shall also demonstrate visibility sight lines measuring 2.4m x 103m in each direction to any access on Woodyard Lane.

Reason: In the interests of highway safety.

13. Notwithstanding the submitted travel plan a further draft of the Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The new draft shall incorporate the following amendments:

6.3

Recommended Travel Survey timetable:

Initial staff travel survey should be undertaken within one month of full occupation of the ATL premises, along with surveys of all employees of all other units on site at that time.

Subsequent surveys - of all employees on site - should take place on the anniversary of this first survey.

The results of each survey, along with an action plan should be submitted in the form of a report to both the local planning authority and Derbyshire County Council, within one month of the survey completion.

7.3

An acceptance that cycle parking needs to be provided in prominent locations, close to work sites and convenient for users, as per car parking provision. The precise quantity, nature and locations shall be included in a detailed drawing accompanying the revised draft.

8.3

Travel Plan co-ordinator

Contact name and details of the Travel Plan co-ordinator should be supplied to the local planning authority in consultation with Derbyshire County Council on appointment, and no later than three months prior to first site occupation, as described.

8.5

The Travel plan co-ordinator shall establish a site wide forum, at which site occupants are able to discuss areas of mutual interest. This should include the Travel Plan as an agenda item at least twice per year.

Once established, the remit of this group should include the ongoing Travel Plan implementation beyond the initial five-year period.

Following approval of the revised travel plan its provisions shall be implemented on first occupation of the buildings hereby permitted.

Reason: The use of a travel plan helps to reduce the need to travel to the site by the private motorcar and as such helps to establish the sustainability of the development. The Local Planning Authority consider that the submitted travel plan requires further amendment and this condition is imposed to ensure that an approved Travel Plan accords with best practice to ensure a minimum use of the private motor car to access the site.

14. 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.

15. 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.

Informatives:

The County Highways Authority recommends that consideration be given to the inclusion of the following into the Travel Plan

6.4

The 10% reduction in SOV should be considered as the minimum target figure for the Travel Plan to achieve during its lifetime.

7.4

Please clarify the precise mechanism for these works to be undertaken.

(nb. The recommendation is for an agreed financial contribution to be set aside for this work to be implemented by the District or County Council).

7.5 Welcome Packs

The Travel Plan, its features and benefits, should be incorporated into the induction process for all new staff.

The Travel Plan should also be incorporated into any monitoring and progress regime for existing staff.

Consider signposting staff to relevant journey planning websites, inc:

- www.travelineeastmidlands.co.uk. 0871 2002233.

- www.derbybus.info/times.
- www.nationalrail.co.uk. 08457 48 49 50. (For long distance work based journeys, eg attendance at Conferences & Seminars)
- www.transportdirect.info. for journey planning and find a cycle route.
- Any other relevant websites for local transport operators, as appropriate.

Consider provision of:

- Discounted or free 'taster' tickets for public transport.
- Discount vouchers for redemption at local cycle and outdoor wear retailers.
- Personalised Journey Planning. This to be made available to all members of staff - whether new or existing - on occupation of the development.
- Incentives for staff, these to be integrated into existing employer reward or incentive schemes.

10.5 Remedies

Scope should exist within the Travel plan process to develop and implement additional initiatives, and refine existing ones as the plan progresses.

Sufficient resources should be set aside throughout the lifetime of the plan to undertake remedial actions should progress towards SOV targets fall below expected levels.

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

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

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

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

Item 1.2

Reg. No. 9/2011/0890/SGO

Applicant:
ATL LIMITED
WOODYARD LANE
FOSTON
DERBYSHIRE
DE15 0WL

Agent:
JOHN CHURCH PLANNING
CONSULTANCY LTD
VICTORIA BUILDINGS
117 HIGH STREET
CLAY CROSS
CHESTERFIELD
DERBYSHIRE
S45 9DZ

Proposal: **OUTLINE APPLICATION ALL MATTERS RESERVED
(EXCEPT FOR ACCESS AND LAYOUT) FOR
EXTENSION OF LOGISTICS / WAREHOUSE DEPOT AT
ATL LIMITED WOODYARD LANE FOSTON DERBY**

Ward: HILTON

Valid Date: 07/12/2011

Please see the Committee Report on 9/2012/0889 for the contents of the Officers' Report on this application.

Recommendation

Subject to the receipt of a signed unilateral undertaking in the sum of £20,838.46 for Strategic Highway Improvements to the A50 at Sudbury **GRANT** permission subject to the following conditions:

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

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

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

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

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

3. Notwithstanding the originally submitted details, this permission shall relate to the following list of supporting documents and plans:

Planning Statement - (John Church Planning Consultancy Ltd) - February 2013, Revised Design & Access Statement (John Church Planning Consultancy Ltd) January 2013, Landscape and Visual Impact Assessment (Peter Eaton & Associates Ltd) December 2010, Ecological Assessment & Protected Species Survey (Arbor Vitae Environment Ltd) August 2011, Flood Modelling Study (Thomas Mackay Environmental Solutions (August 2012) and Revised Flood Risk Assessment (M-EC Ltd) September 2012. Transport Assessment (Mewies Engineering Consultants Ltd) August 2011 and Technical Note - Traffic Impact (MEC Consulting Engineers), November 2012, Revised Framework Travel Plan (Mewies Engineering Consultants Ltd) July 2012. Noise Levels and Predictions (Noise Suppression (Chesterfield) Ltd) April 2011, Tree Report (Bradley Environmental Consultants) June 2009.

Drawings: -

Overall Development Plan -12914-01N, Proposed Site Section - 12914-02C, Planning Phase Drawing - 12914-03E, Proposed Road Elevations - 12914-04C, Existing Site Plan - 12914-05, Full Planning Outline on Site Plan - 12914 08D, Proposed Drainage Layout (Sheet 1 of 3) - 12914-100/S1D, Proposed Drainage Layout (Sheet 2 of 3) - 12914-100/S2F, Proposed Drainage Layout (Sheet 3 of 3) - 12914-100/S3C, Drainage Details - 12914-101, Drainage - Overview of full site - 12914-102B, Landscape and Structure Planting - DRG/ATL/WLF/JC/PEA/03/DHB, Landscape and Structure Planting - DRG/ATL/WLF/JC/PEA/04/DHB, Tree Survey (TPO308-208SDCC) Tree/Hedge Removal - ATL/WLF/JC/PEA/05/DHB.

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

4. Notwithstanding the submitted information, details of a lighting scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be used to illuminate the site for the duration of the development and shall be maintained in accordance with the manufactures specifications. The submitted scheme shall indicate the position of all light sources and shall demonstrate that the lighting does not spill outside the site boundaries nor on the landscaped and open areas outside operational areas and the night sky.

Reason: The submitted details no longer reflect the arrangement of the site layout and further details are required to ensure that the scheme only illuminates those areas necessary to the operation of the site.

5. No part of the development shall be commenced unless and until the landscaping scheme required by Condition 4 & 5 and the surface water drainage scheme required by Condition 10 of planning permission 9/2011/0889 have been implemented to the satisfaction of the Local Planning Authority or such other timetable as may be agreed in writing by the Local Planning Authority.

Reason: The landscaping scheme and surface water drainage provision set out in conditions 4 & 10 of planning permission 9/2011/0889 were at the heart of the reason for granting that planning permission. The details accompanying the planning application for this development are the same as those approved in that

application and the Local Planning Authority seeks to ensure that the approved schemes are in place prior to the development on this part of the applicants site.

6. Before the development is commenced details for the provision of bat and bird boxes including provision for barn owls, to be located within the site or within the structure of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and the bird and bat boxes shall thereafter be retained in position for the duration of the development.

Reason: In order to ensure that existing habitat in order to maximise the opportunity to encourage wildlife habitat creation within the site. Reason: Evidence of barn owls roosting at the site have been identified in the ecology report accompanying the application. Barn owls are specifically protected under Schedule 1 of the Wildlife and Countryside Act 1981 and the condition is imposed in accordance with Section 25(1) of the Act as an expedient provision to conserve a protected species.

7. Further to Condition 6 above and 30 days before any development is undertaken on the application site a barn owl roosting/nesting box shall be provided within 200m of the application site boundary in a location to be agreed in writing by the Local Planning Authority. The barn owl roosting/nesting box shall be retained in place for a minimum of 30 days after the permanent provision required by Condition 6 above has been put in place.

Reason: Evidence of barn owls roosting at the site have been identified in the ecology report accompanying the application. Barn owls are specifically protected under Schedule 1 of the Wildlife and Countryside Act 1981 and the condition is imposed in accordance with Section 25(1) of the Act as an expedient provision to conserve a protected species.

8. No building or construction work on the site shall be commenced until evidence has been provided to the Local Planning Authority that no birds are nesting in any of the buildings to be demolished immediately prior to the works commencing.

Reason: Evidence of barn owls roosting at the site have been identified in the ecology report accompanying the application. Barn owls are specifically protected under Schedule 1 of the Wildlife and Countryside Act 1981 and the condition is imposed in order to allow the Local Planning Authority to discharge its obligation under Section 25(1) of the Act.

9. The development hereby permitted shall not be commenced until such time as the actual scheme to improve the existing surface water disposal system has been submitted to, and approved in writing by, the local planning authority. The surface water drainage scheme shall include

A detailed assessment of the drainage items to be installed and be accompanied by full calculations proving their suitability along with a layout showing their positions and levels on site.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and reduce flooding to the proposed development and future users.

10. Before the development is commenced details of a footway between the site access on Woodyard Lane to the footway on Uttoxeter Road and thence to the bus stop on Uttoxeter Road together with details of the improvements to the bus stops both as set out in paragraph 10.6 as mitigation measures in the Traffic Impact Assessment shall be submitted to and approved in writing by the Local planning Authority. The submitted details shall demonstrate a minimum footpath width of 2m and show the retention of deterrent kerbing to the whole of the Woodyard Lane frontage. The submitted details shall also demonstrate visibility sight lines measuring 2.4m x 103m in each direction to any access on Woodyard Lane. The footway and other requirements shall be implemented prior to the first occupation of the buildings hereby permitted.

Reason: In the interests of highway safety.

11. Notwithstanding the submitted travel plan a further draft of the Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The new draft shall incorporate the following amendments:

6.3

Recommended Travel Survey timetable:

Initial staff travel survey should be undertaken within one month of full occupation of the ATL premises, along with surveys of all employees of all other units on site at that time.

Subsequent surveys - of all employees on site - should take place on the anniversary of this first survey.

The results of each survey, along with an action plan should be submitted in the form of a report to both the local planning authority and Derbyshire County Council, within one month of the survey completion.

7.3

An acceptance that cycle parking needs to be provided in prominent locations, close to work sites and convenient for users, as per car parking provision. The precise quantity, nature and locations shall be included in a detailed drawing accompanying the revised draft.

8.3

Travel Plan co-ordinator

Contact name and details of the Travel Plan co-ordinator should be supplied to the local planning authority in consultation with Derbyshire County Council on appointment, and no later than three months prior to first site occupation, as described.

8.5

The Travel plan co-ordinator shall establish a site wide forum, at which site occupants are able to discuss areas of mutual interest. This should include the Travel Plan as an agenda item at least twice per year.

Once established, the remit of this group should include the ongoing Travel Plan implementation beyond the initial five-year period.

Following approval of the revised travel plan its provisions shall be implemented on first occupation of the buildings hereby permitted.

Reason: The use of a travel plan helps to reduce the need to travel to the site by the private motorcar and as such helps to establish the sustainability of the development. The Local Planning Authority consider that the submitted travel plan requires further amendment and this condition is imposed to ensure that an approved Travel Plan accords with best practice to ensure a minimum use of the private motor car to access the site

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

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

13. 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.

Informatives:

You are advised:

The County Highways Authority recommends that consideration be given to the inclusion of the following into the Travel Plan

6.4

The Travel Plan should acknowledge that a 10% reduction in SOV should be considered as the minimum target figure for the Travel Plan to achieve during its lifetime.

7.4

Please clarify the precise mechanism for these works to be undertaken - The recommendation is for an agreed financial contribution to be set aside for this work to be implemented by the District or County Council).

7.5 Welcome Packs

The Travel Plan, its features and benefits, should be incorporated into the induction process for all new staff.

The Travel Plan should also be incorporated into any monitoring and progress regime for existing staff.

Consider signposting staff to relevant journey planning websites, inc:

- www.travelineeastmidlands.co.uk. 0871 2002233.
- www.derbybus.info/times.
- www.nationalrail.co.uk. 08457 48 49 50. (For long distance work based journeys, eg attendance at Conferences & Seminars)
- www.transportdirect.info. for journey planning and find a cycle route.
- Any other relevant websites for local transport operators, as appropriate.

Consider provision of:

- Discounted or free 'taster' tickets for public transport.
- Discount vouchers for redemption at local cycle and outdoor wear retailers.
- Personalised Journey Planning. This to be made available to all members of staff - whether new or existing - on occupation of the development.
- Incentives for staff, these to be integrated into existing employer reward or incentive schemes.

10.5 Remedies

Scope should exist within the Travel plan process to develop and implement additional initiatives, and refine existing ones as the plan progresses.

Sufficient resources should be set aside throughout the lifetime of the plan to undertake remedial actions should progress towards SOV targets fall below expected levels.

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

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

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue

environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

Item 1.3

Reg. No. 9/2012/0479/FM

Applicant:
MR & MRS GRAHAM SMITH
112 MOUNT PLEASANT ROAD
CASTLE GRESLEY
SWADLINCOTE
DE11 9JF

Agent:
PAUL JOHNSON
APEX DESIGN
54-56 HIGH PAVEMENT
NOTTINGHAM
NG1 1HW

Proposal: **THE ERECTION OF A DETACHED DWELLING ON LAND**
TO THE EAST OF THE GRANGE REPTON ROAD
NEWTON SOLNEY

Ward: **REPTON**

Valid Date: **21/06/2012**

Reason for committee determination

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

Site Description

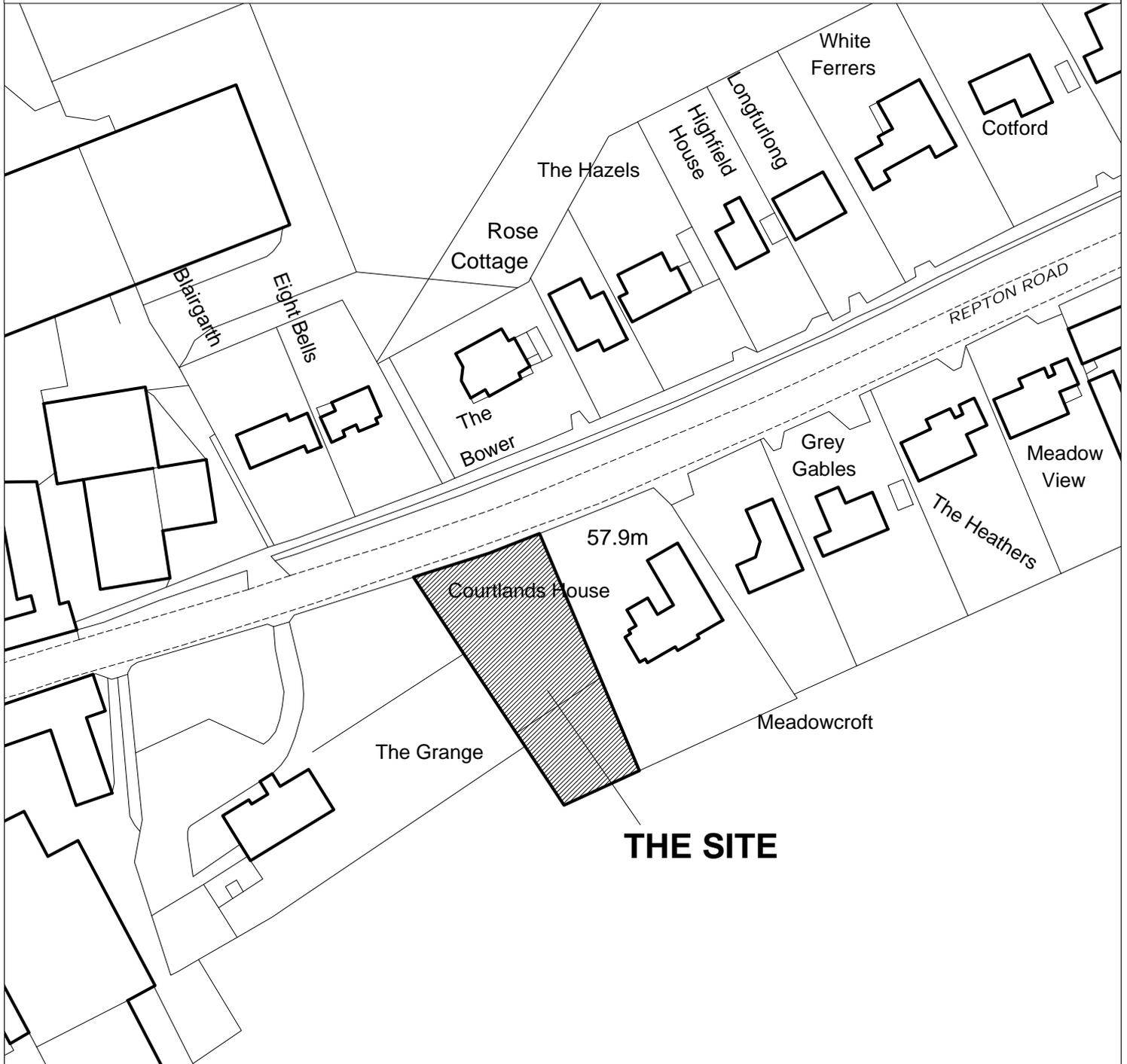
The application site is situated within the village of Newton Solney within the conservation area and previously formed part of the garden of The Grange, a residential property situated to the west and includes a small area of agricultural land to the south. There is a 2 metre high hedge on the front boundary and the site is overgrown with some fruit trees in the north eastern corner.

The surrounding properties are varied in style and character but generally consist of large detached properties set back from the road within large plots. The Grange to the east is a larger Victorian house within a landscaped garden with a prominent group of scots pines adjacent to the boundary of the application site. Courtlands House is a recently constructed house to the east of the site.

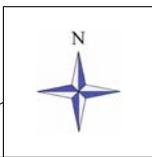
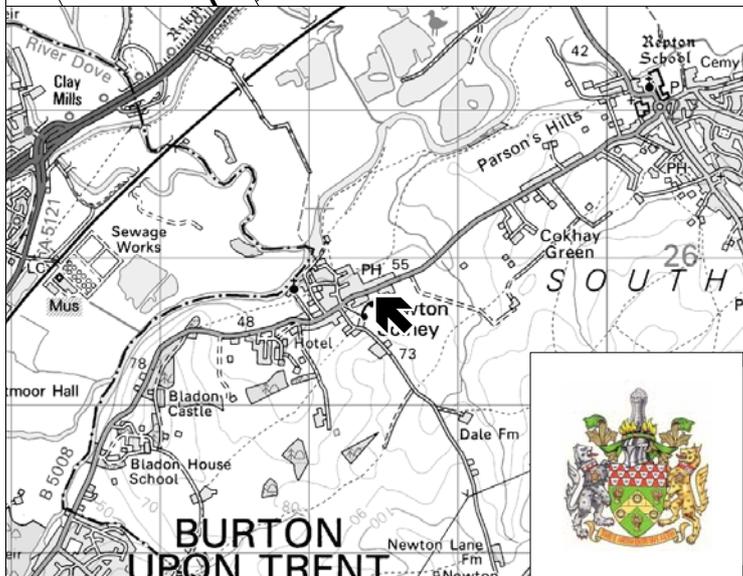
Proposal

Planning permission is sought for the erection of a dwelling. The design is identical to that approved in 2009. A 'T' shaped property is proposed with the majority of the dwelling adjacent to the eastern boundary. The position of the dwelling has changed slightly as the Tree survey recommended that it be set 2.5m from the eastern boundary.

9/2012/0479 - Land to the East of The Grange, Repton Road, Newton Solney, Burton on Trent DE15 0SG



THE SITE



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A new access is proposed onto Repton Road nearest the eastern boundary and with a double garage proposed with ample parking and manoeuvring space. The garden area of the property would be to the west and south.

Applicants' supporting information

A Design and Access Statement has been submitted which outlines the pre-application discussion prior to the 2009 permission. The proposal is designed as to have a minimal impact on the Conservation Area and the prominent property The Grange and to limit the impact on the residential amenity of neighbouring properties.

The Tree Survey identifies that there are existing fruit trees on the site that are not worthy of retention and could be mitigated with replacement planting as part of the landscaping scheme. The evergreen trees that are primarily Austrian Pines and a mature Crab Apple within the grounds of The Grange adjacent to the western boundary have been assessed and root protection areas (RPAs) calculated and the report recommends an undisturbed buffer strip of 2m adjacent to the Pines and the overhang of the crown of the Crab Apple should be maintained and protected from development. Adjacent to the eastern boundary there are a row of Ornamental Japanese Cherries and Purple-Leaved Plums and the dwelling should be set 2.5m from this boundary and this area should remain undisturbed during construction.

The Protected Species Survey identified no badger setts on site. There is a hedgerow in the central part of the site which should be removed immediately upon planning approval to avoid any risk of conflict with badgers and outside of the Bird Breeding Season.

Planning History

9/2008/1151 – The erection of a dwelling, granted 28/1/09

9/2008/0126 – The erection of a dwelling, Refused 1/4/08

“The proposed dwelling by virtue of its size, location on the plot, design, form and massing would have a detrimental effect on the setting of Newton Solney Conservation Area contrary to the provisions of Environment Policy 12 of the South Derbyshire Local Plan”.

9/2004/1383 – Outline application (all matters except access to be reserved) for the erection of a residential development, granted 14/2/05

9/2001/0480 – The erection of a detached dwelling and garage in substitution of planning permission 9/2000/0002/F, granted 27/6/01

9/2000/0002 – The erection of a detached house, granted 5/9/00

Responses to Consultations

The Council's Tree Officer recommended that a tree survey be undertaken. The tree survey is comprehensive and includes the RPAs. The trees growing within areas altered by development on the eastern boundary have been assessed and the recommendation to set the dwelling 2.5m from the boundary appears fair and the undisturbed strip of

land during construction and tree protection measures are important recommendations that should be covered by a condition.

The Contaminated Land Officer has no objections.

The Highway Authority notes there have been similar applications on the site. There are no objections subject to conditions relating to the access, parking and manoeuvring area and no gates within 5 m of the highway boundary.

Newton Solney Parish Council considers that the access for the new building would create additional problems on an already busy road, the design and appearance is not considered suitable, as they believe that a bungalow was proposed at outline. The proposal may involve the removal of preserved trees in the Conservation Area.

The Conservation Officer advises that the design proposed was as a result of pre-application discussions in 2008 and the dwelling is proposed further back within the plot from the road frontage in order to afford views towards The Grange and the building range of Grange Farm which contributes to the character of the conservation area. The design of the dwelling and its position on the plot is proposed to avoid obscuring important views of the Conservation Area from the east. Its appearance from Repton Road is minimised due to its orientation.

Derbyshire Wildlife Trust has assessed the Protected Species Survey and advise that no impact upon Badgers is anticipated as a result of the proposed development. In light of the loss of some hedgerow within the site it is advised that new native hedgerow planting is carried out to compensate. Conditions are recommended in terms of hedgerow removal being outside the bird breeding season and measures to protect Badgers during construction.

Responses to Publicity

Two letters of objection have been received from the owners of the properties to the east and west. Their concerns are summarised as follows:

- a) The appearance of a sideways dwelling is not in keeping with the street or area.
- b) The dwelling should face Repton Road and considered too big for the plot.
- c) Courtlands House would be overshadowed to the rear and there would be a large expanse of brick on the eastern boundary.
- d) The application form states there is no right of way affected but their driveway is a right of way and no provision is made.
- e) The well established trees on the plot are not included on the plans and there are a line of trees on the eastern boundary which may be affected by the development.
- f) The red line plan is not correct as the boundaries are not accurate, the relevant notices have not been served.
- g) The orientation of the dwelling would mean a solid brick wall on the frontage which would have a detrimental impact on the Conservation Area.
- h) The proposal would impact on the amenity of the property to the west as 10 windows would directly overlook the garden area and ground floor lounge windows.
- i) Details of landscaping and the turning area have not been provided and details of the how vehicles will enter and egress the site should be provided.

- j) Due to the nature of the site and the hedges on the boundaries a ecology survey should be provided to ascertain whether the site includes any significant wildlife habitats.
- k) A full tree survey should be submitted due to the well established trees on site and to establish if the Root Protection Areas of the adjacent Pine Trees within the garden area of The Grange would be affected.
- l) A landscaping scheme should be provided as the site is adjacent to the Conservation Area and an indication of whether the hedge on the western boundary is to be retained should be provided.

Development Plan Policies

The relevant policies are:

Local Plan: H5, H11, E9, E12, T6.

Supplementary Planning Guidance 'Housing Design and Layout' (SPG)

National Guidance

NPPF Paragraphs 17, 32, 53, 56, 118 and 119

Planning Considerations

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

- The Principle of Development
- Streetscene and impact on the Conservation Area
- Residential Amenity
- Trees and Wildlife

Planning Assessment

The Principle of Development

Housing Policy 5 allows for new housing development within the village confine of Newton Solney provided it is in keeping with the scale and character of the settlement. This plot is within the village confines and the Conservation Area boundary runs immediately adjacent to the south west.

The principle of residential development was previously established with outline approval in 1998 with subsequent renewals, the last one being in 2005. A previous application for a dwelling was refused on design grounds in April 2008. Approval of an identically designed dwelling (to that now submitted) in a similar position in the plot was granted in 2009. This permission expired on the 28th of January this year. Both the 2009 application and this current application are for full permission.

Streetscene and impact on the Conservation Area

The site abuts the Conservation Area boundary and thus consideration of Environment Policy 12 is relevant in relation to views into the area and ensuring that it would not have an adverse impact on its character and appearance. The design of the proposal followed on from pre-application discussions with the Design and Conservation Officer in 2008 and the dwelling is proposed further back within the plot from the road frontage in order to afford views towards The Grange and the building range of Grange Farm

which contributes to the character of the conservation area when travelling from the east. The proposed dwelling would be situated lengthways on with the front elevation facing westwards towards The Grange. The massing would be broken down into a range of staggered gables that reduce in height towards the road with the main part of the house being of similar height to Courtlands House. The plain brick elevation facing towards this neighbouring boundary extends to the front of the site and though visible would be viewed beyond the mass of Courtlands House with further visual interest added by the staggered roof line.

The design of the dwelling and its position on the plot is proposed so as to avoid obscuring important views of the Conservation Area from the east. Its appearance from Repton Road is minimised due to its orientation and thus it does not have a detrimental impact on the character of the Conservation Area.

Residential Amenity

Housing Policy 11 and NPPF paragraph 17 relate to taking into account the impact on the residential amenities of neighbouring properties. The neighbouring property Courtlands is situated to the east of the site the main aspect of which is front facing towards the road and a blank elevation facing towards the application site. There are no main windows proposed to the side elevation of the new dwelling that fall within the sector of view of the nearest main front facing windows of this neighbouring property and the proposal complies with the minimum distance requirements in terms of overbearance.

With respect of The Grange, the proposed windows would be 39m from the ground floor lounge windows in the end elevation of this property. This is far in excess of the standard 21m between main habitable room windows set out in the Council's SPG. The dwelling would be between 5.5-8.5 m from the western boundary and this relationship is considered acceptable given that the neighbouring garden is 33m in length and there is some screening on the boundary.

Trees and Wildlife

The Council's Tree Officer visited the site and carried out an initial assessment in relation to the trees and recommended a Tree Survey be undertaken. The Tree Survey is comprehensive and includes the RPAs. The trees growing within areas altered by development on the eastern boundary have been assessed and the recommendation to set the dwelling 2.5m from the boundary appear fair and the undisturbed strip of land during construction and tree protection measures are important recommendations that could be covered by a condition.

The Protected Species Survey found no evidence of Badger activity on the site and conditions in relation to their protection during construction, hedgerow removal avoiding the bird breeding season and a requirement for replacement hedgerow planting could be placed on any approval.

The agent has confirmed in writing that the hedge on the western boundary adjacent to the Conservation Area would be retained and this would form part of the landscaping scheme secured by condition. Requiring the landscaping scheme to be submitted prior to a decision is not considered necessary as it can be a pre-commencement condition as per the 2009 permission.

Other issues raised by objectors

The red line plan has been amended as its scale was not accurate due to photocopying. No notices need be served as the applicant has signed certificate A to confirm his ownership. The Highways Authority has considered the application and has had sufficient information in order to assess the application. Planning permission would not override the legal issue with respect the neighbouring property's right of way.

Conclusion

The principle of development is accepted as the site is within the village confines and in light of previous permissions. The dwelling has been designed and orientated in a way to minimise the impact on views into the Conservation Area and its character and appearance. Residential amenity of neighbouring properties would not be significantly affected and the proposal is acceptable in terms of highway safety. The proposal would not have an adverse impact on the trees adjacent to the boundaries nor wildlife subject to mitigation measures.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 2013.109-001, 208:08:21'B' and 208:08:22'B'.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The agreed materials shall then be used in the development hereby approved.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Notwithstanding the particulars of the application, revised details of the west elevation dormer windows omitting the brick arches and incorporating a projecting eaves line, shall be submitted for approval in writing by the Local Planning Authority prior to commencement of the building operation. The dormer windows shall be constructed in accordance with the approved details.
Reason: The submitted details are considered unsatisfactory.

5. Large scale drawings to a minimum Scale of 1:10 of eaves, verges, external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery and associated details shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

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

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

7. 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 large scale detailed drawings to a minimum scale of 1:10 including sections of the 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.

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

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

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

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

10. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

11. Prior to commencement of development a new vehicular access shall be created to Repton Road in accordance with application drawing no. 2013.109-001 and laid out, constructed and provided with 2m x 43m visibility splays in both

directions, the area in advance of the sightlines being maintained throughout the life of development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining the nearside carriageway channel level.

Reason: In the interests of highway safety.

12. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

13. Prior to occupation of the dwelling hereby permitted space shall be provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

14. 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.

15. Notwithstanding the submitted details, the windows in the eastern elevation of the dwelling shall be permanently glazed in obscure glass.

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

16. The dwelling hereby permitted shall be constructed in accordance with the recommendations iii), iv) and v) of the Symbiosis Consulting Tree Survey dated the 20th December 2012.

Reasons: To protect the health of trees on the boundaries of the site.

17. No development shall take place until measures to protect badgers from being trapped in open excavations and/or pipes and culverts is submitted to and approved in writing by the local planning authority. The measures shall include:

a) Creation of sloping escape ramps for badgers which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day

b) Open pipe-work larger than 150 mm outside diameter should be blanked off at the end of each working day.

Reason: To safeguard protected species in accordance with NPPF paragraph 119.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the

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

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

19. 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, replacement hedge planting, together with measures for their protection in the course of development.

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

20. 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.

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

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

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 Gail Mordey on 01629 538537) before any works commence on the vehicular access within highway limits.

The applicant is advised that the hedgerows or bramble on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to August inclusive. If you are in doubt as to requirements of the law in this regard you should contact Natural England or Derbyshire Wildlife Trust.

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular

development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

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

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

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

Item 1.4

Reg. No. 9/2013/0092/FM

Applicant:
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DE21 5LU

Agent:
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Bi Design Architecture Ltd
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Repton
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DE65 6GF

Proposal: **THE ERECTION OF REPLACEMENT DWELLING AND
THE CHANGE OF USE OF EXISTING PADDOCK TO
DOMESTIC CURTILAGE AT THE CROFT BROOK LANE
SUTTON ON THE HILL ASHBOURNE**

Ward: HILTON

Valid Date: 25/02/2013

Reason for committee determination

Part of the application site lies outside the village confine for Sutton-on-the-Hill and as such the expansion of the residential curtilage is potentially contrary to the provisions of the Development Plan and a Committee determination is required.

Site Description

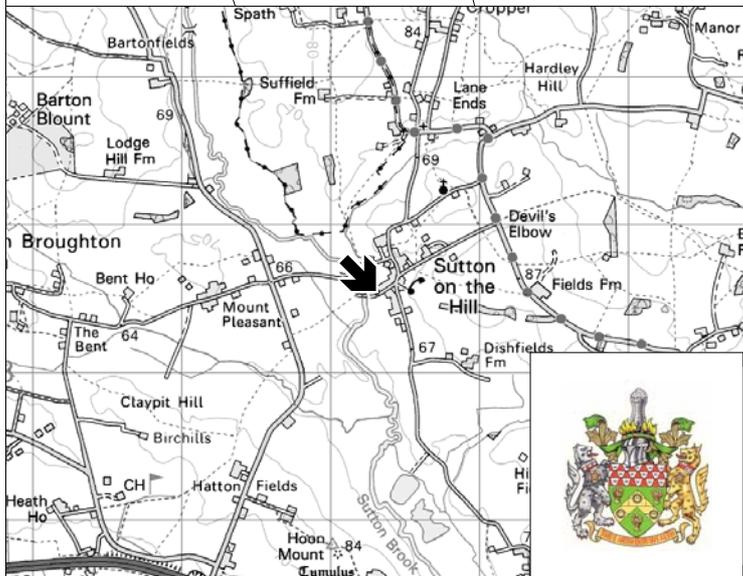
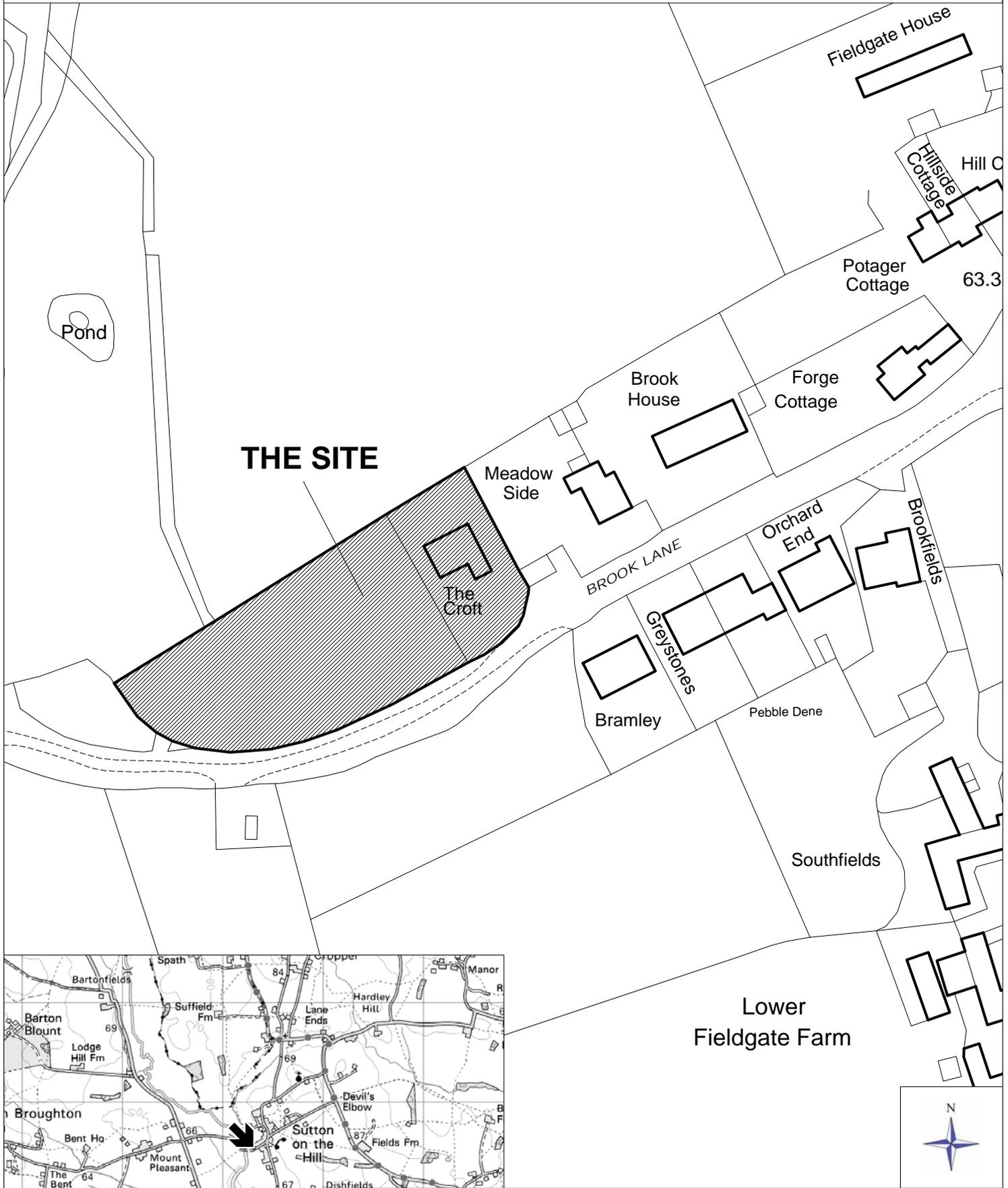
The site comprises the existing dwelling and, following an amendment to the plan, a part of the paddock next to the existing curtilage that extends west from the house curtilage.

Proposal

The existing dwelling on the site would be demolished and replaced by a 1.5 storey dwelling across the whole width of the existing curtilage. The site is the last plot on Brook Lane, to the east is a property 'Meadow Side, the house itself is some 16m from the common boundary between the properties.

There is a 1.8m high fence along most of this boundary with the exception of a short length of the hedge next to the access to The Croft. There is an existing roadside hedge across the front of The Croft on Brook Lane that extends along the frontage of the paddock that would be incorporated into the curtilage were planning permission granted. To the north is a hedge some 1.5m high to the smallholding occupying the adjacent field. The existing residential curtilage on the west of the house would be

9/2013/0092 - The Croft, Brook Lane, Sutton on the Hill, Ashourne,
Derby DE6 5JA



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removed and replaced by new hedge with a grassed slope down towards the original boundary of the residential curtilage.

Applicants' supporting information

It is argued that the existing dwelling is of a poor design that contributes little to the character of the village. The new dwelling would be a bespoke family dwelling of a design that reflects the local character in terms of materials of construction and picking up on the local vernacular such as gable widths and window design but taking advantage of glazing to provide a more modern twist to some of the gables that face west.

Planning History

The planning permission granted in the 1970s is the only relevant planning history albeit the applicants have argued that the whole of the paddock was originally included in the curtilage, the separation only being inserted when a previous occupier found the garden too large.

Responses to Consultations

The County Highway Authority and the Environmental Health Manager have no objection subject to conditions; Severn Trent Water has no objection.

Responses to Publicity

Two letters have been received one objecting to the development and the other commenting on the need to maintain access to adjacent property during the demolition and construction of the new dwelling, others also use the lane to access the sewerage works and other fields.

The objections can be summarised as follows:

- a) The scale and massing of the new dwelling are such that they are out of proportion with the area and amounts to overdevelopment of the site. This means it is contrary to the provisions of Housing Policy 5 of the Local Plan.
- b) The footprint of the proposed dwelling is outside the area occupied by the existing dwelling.
- c) The side garden to Meadowside is the only substantial area of beneficial garden the property enjoys. The large gable on the immediate boundary to the two properties would impinge on the enjoyment of that garden area, as a two-storey gable would replace an existing single storey extension.
- d) The garden extension would effectively extend the development boundary to the village contrary to the provisions of the Local Plan.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policies 5 & 11. Environment Policy 1

Supplementary planning Guidance 'Housing Design and Layout' (SPG)

National Guidance

NPPF – Paragraphs 7, 14, 17 and 215.

Planning Considerations

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

- The Development Plan and the NPPF.
- Impact on adjacent dwellings.

Planning Assessment

The NPPF at paragraph 215 states that where Local Plan policies are out of date but comply with the objectives of the NPPF, then those policies can continue to carry weight in determining planning applications. It is considered that Housing Policies 5 & 11 and Environment Policy 1 accord with the objectives of the NPPF.

Housing Policy 5 states that housing development is acceptable within the settlement boundaries defined on the Proposal Map. The existing house and curtilage lies within the settlement boundary for Sutton-on-the-Hill and the proposed dwelling would extend as far as that existing settlement boundary.

The next consideration is whether the proposal is of a scale and character in keeping with the settlement. There are a variety of house types within the village that reflect its development over the years. The existing dwelling is one of its time but, given the design and appearance of the existing house, is not worthy of retention. The new dwelling would be larger in mass but the way the project has been designed, the apparent mass of the building has been reduced through the use of small-scale elements that help to brake down to the overall appearance of the new dwelling. The neighbour has concern that the development is out of scale and in assessing the application the conclusion is that whilst this would be a substantial dwelling the mass and scale of the house is acceptable on the basis that there are other houses in the village of similar scale and mass that would make it difficult to sustain a reason for refusal on these grounds.

The requirements of Housing Policy 11 are that new housing should be of a standard that does not affect the residential amenity of neighbours, highway safety, and is of a safe and functional layout. To assist in assessing these issues, the Housing Design and Layout SPD has been adopted by the Council. This requires minimum separation distances between habitable rooms and ensure that private amenity space is not affected by new housing in a manner that would be unduly detrimental to the occupation of the adjacent dwelling. In this case there is a blank elevation, save for wet room, utility room and toilet windows can be required to be obscure glazed. Whilst the neighbouring property has windows looking towards the site these are some 16m from the end gable in the new dwelling. This exceeds the minimum separation distances required in the SPG.

There would be no overlooking of the side garden of Meadowside. The new dwelling would come to a nearest point of 2m from the common boundary but with the degree of separation referred to above it is not considered that the new dwelling would unreasonably overbear on neighbours amenity. In addition the new dwelling is situated to the south west of the adjacent house and as such the garden areas would continue to

enjoy sunlight in the morning and well into the afternoon. There would be some loss of daylight to the side garden area into the evening particularly during the winter months.

Environment Policy 1 of the adopted South Derbyshire Local Plan requires that development in the countryside should be essential to a rural based activity or unavoidable in the countryside and that the character of the countryside, landscape quality, wildlife and historic features should be safeguarded. If meeting these criteria then development should be so designed and located such that its impact on the countryside is minimised.

The extension of the residential curtilage into the countryside is necessary intrusion when it abuts a residential curtilage where and expansion of that curtilage into the countryside is unavoidable. Whilst not necessary for an established rural activity, the expansion of a curtilage to a long established dwelling is not likely to be harmful particularly where existing an boundary hedge provides a high degree of screening from Brook Lane. In this case provided that built development is controlled, the material impact of the garden expansion on the character and appearance of the countryside would be minimal given that the adjacent paddock already has a close-cropped appearance.

A condition is recommended to require that a new boundary fence and hedge be planted on the new edge to the garden as illustrated on the amended plans and that new garden buildings require planning permission prior to their erection so that they can then be considered on their merits. These conditions would further mitigate the insignificant impact of the development on the wider countryside. The planting of the hedge on the boundary has the potential to increase the wildlife interest of the area.

The materials of construction are specified on the amended drawings and these are considered acceptable. Foul water would be disposed of via the sewer and surface water disposal would be to a soakaway.

In the light of the above, planning permission is recommended subject to conditions.

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. This permission shall relate to the following drawings: 1050H/ 01&/06

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

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

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

4. 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.

5. No Development shall take place until a scheme for the prevention of the ingress to the property of ground gas has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of the dwelling hereby permitted.

Reason: Records indicate that a pond was infilled with unknown material and as the site lies within the influencing distance of the filled ground a precautionary approach is required to ensure that future occupiers are not affected by the ingress of ground gas.

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

Reason: In the interests of highway safety.

7. Prior to the first use of the development hereby permitted, parking facilities and manoeuvring space as illustrated on Drawing 1050H/06 shall be provided so as to accommodate two cars within the curtilage of the dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, each space measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site.

Reason: To ensure that adequate parking/garaging provision is available.

8. The new boundary fence illustrate on Drawing 1050H/06 shall be erected prior to the first occupation of the dwelling hereby permitted and in the first planting season following the completion of the development (March to September) a hedge shall be planted beneath the fence made up of the species specified on the drawing as above. Thereafter the hedge and fence shall be retained in place for the duration of the development.

Reason: In order to define a new boundary to the dwelling in the interests of the appearance of the area.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, no buildings and no gates, walls, fences or other means of enclosure (other than as shown on the plan no 1050H/06) shall be erected on the application site without the prior written approval of the Local Planning Authority.

Reason: To ensure that any such structures are appropriate to the character and appearance of the building.

Informatives:

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

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

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

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property. Further to Condition 5 above, the use of a heavy gauge membrane in the foundations and beneath the building slab may be sufficient to meet the requirements of this condition.

Item 1.5

Reg. No. 9/2013/0095/FM

Applicant:
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Agent:
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Proposal: THE CHANGE OF USE FROM WORKSHOP TO A RESIDENTIAL DWELLING AND THE ERECTION OF A LINK TO GARAGE INCORPORATING A GARDEN ROOM AND AN EXTENSION ON SOUTH ELEVATION AT 89 EGGINTON ROAD ETWALL DERBY

Ward: ETWALL

Valid Date: 12/02/2013

Reason for committee determination

Councillor Lemmon has requested that this application be brought to Committee as local concern has been expressed about a particular issue.

Site Description

This is a substantial original outbuilding to one or both of the front dwellings. The building forms a part of the boundary to 2 & 3 Grove Park that lie to the east of the application site, a high boundary wall then extends from the application building for a part of the south boundary of the application site and then there is a hedge for the remainder of that boundary and along the west and north boundaries of the site. 3 Hollies Court has a 2.0m high boundary fence on the west boundary that extends across the rear of 87 Egginton Road. 87 Egginton Road also has a substantial leylandii type hedge on its side of the boundary some 5 metres high. On the application side of the boundary this hedge has been cut back to reveal the boundary fence.

Proposal

The proposal has been amended since submission. In its original state the development would have resulted in an unacceptable relationship between the new dwelling and a house on Hollies Court. The amended scheme seeks to address this overlooking issue by rearranging the internal layout of the proposed dwelling with first

floor windows being permanently obscure glazed in the west elevation, the obscure glazing of other windows at ground floor level to the sun room.

The application also proposes an extension to link the two-storey element of the building to the existing garage block. The extension would accommodate a garden room linking into a kitchen/living room in the garage. A garage would be provided in the south part of the two-storey building with a smaller garage/store built on the side adjacent to the boundary with 2 & 3 Grove Park. It would be accessed via a realigned drive to the side of No 89 partly sharing its existing driveway.

Applicants' supporting information

The applicants acknowledge that the application as submitted was not capable of implementation and comply with the Councils adopted standards. However the changes as described above are in the opinion of the applicant sufficient to ensure that there is no overlooking of any of the adjacent properties and the proposal as amended would comply with adopted standards.

It is argued that the conversion of the buildings would provide an excellent family dwelling in a manner that is sympathetic to the character of the original building that formed a part of the setting to Nos 87 & 89 Egginton Road. It would also provide a viable long-term use for the building. Minimal alterations to the building are required to facilitate its use as a family dwelling, the number of rooflights has been reduced in the amended scheme and they would be flush fitting with the roof slope.

The site is served with a bus route passing along Egginton Road and there are various shops and other facilities in the village centre.

Planning History

Planning permission has been granted for a garage on the frontage to the property to replace that, which would be lost, were this building and garage converted - 9/2012/0096 refers.

Responses to Consultations

Etwell Parish Council objects on the basis that this is back land development with a substantial amount of new building. The development would intrude into the privacy of all the neighbouring houses and gardens. Access to the new dwelling would be substandard and a danger to pedestrians and there is concern amount of traffic using the drive and the dangerous access.

The County Highway Authority acknowledges that the access is onto a residential cul de sac the access point is substandard in terms of emerging visibility. However if the frontage features were reduced to 1.0m above the carriageway level then the slow speed of traffic on the highway is unlikely to be detrimental to highway safety. An amended plan is requested for consideration.

Severn Trent Water has no comment.

The Environmental Health Manager (Contamination) and has no significant concerns about the proposal but there are records of infilled areas where there is no knowledge of

what was used to fill voids. Accordingly, a condition is recommended to ensure an appropriate membrane is used to prevent the ingress of ground gas into the proposed dwelling.

Responses to Publicity

7 letters have been received that object to the development for the following reasons:

- a) The new window in the south elevation would overlook a neighbouring property, as would the proposed roof lights in the east slope of the roof.
- b) Impact on the privacy of no 87 cannot be properly assessed, as the house is not properly represented on the drawings the plans should be redrawn to represent No 87 accurately on the plans. However, if the trees in the back garden were removed, the property would overlook the rear of 87.
- c) There is a dispute about the ownership of the small toilet block owned by No 87 is shown within the application site as in the ownership of the applicants, this is not the case.
- d) The position of the log burner should be clarified and the location of the flue should be established.
- e) The proposal would overlook several rooms in the adjacent property No 3 Hollies Court and there would be a loss of privacy.
- f) The proposed roof windows in the rear roof slope would directly overlook the neighbours day room a larger rooflight on the opposite roof slope would overcome that issue.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policy 5 & 11.

Supplementary Planning Guidance 'Housing Design and Layout' (SPG)

National Guidance

The NPPF - paragraphs 7, 9, 61, 126 & 215.

Planning Considerations

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

- The Development Plan and NPPF
- Impact on amenity of neighbours
- Access

Planning Assessment

The Development Plan and NPPF

Paragraph 215 of the NPPF states that where Local Plan policies are consistent with the aims of the NPPF, then those policies can continue to carry weight in determining planning applications as a part of the Development Plan. The above-mentioned paragraphs require that development should enhance people's living environment whilst accepting the need to retain buildings where possible to preserve the historic fabric of

the country and it is considered that the provisions of Housing Policies 5 and 11 accord with these NPPF objectives.

Impact on amenity of neighbours

The outbuilding forms a part of the original development along Egginton Road. The site lies within the village confine and determination of the application will rest on the assessment of the overlooking issues identified prior to the submission of the amended scheme and whether those amendments adequately address those issues.

The building does lie in close proximity to neighbouring houses, in particular 3 Hollies Court and 2 & 3 Grove Park. The changes to the scheme have sought to address the overlooking issues on 3 Hollies Court where potentially there is the greatest number of habitable room windows being overlooked by the proposed development. A mix of high level ground floor windows and the use of study and utility room facilities seek to address views towards the neighbouring property at ground floor and the use of obscure glazing to first floor windows to secure privacy in the ground and first floor rooms of 3 Hollies Court. This clearly meets the requirements to prevent overlooking of the rear rooms of 3 Hollies Court. The occupiers of the proposed dwelling would have access to unscreened sunlight via the roof lights proposed above each room. This is considered an acceptable compromise in order to retain the building in the village.

No 2 Grove Park has issues with overlooking of the rear of their property from a new window in the south elevation. It is considered that the relationship between windows in the rear of 2 Grove Park and the bedroom window is such that views into habitable rooms of the existing dwelling would not be possible to a point where overlooking of habitable room windows would justify refusing the planning application. There would however be potential views of the area immediately outside habitable room windows but vegetation in the neighbours garden partly obscures that view to a point where privacy in that area immediately to the rear of the 2 Grove Park would be largely maintained. Notwithstanding that the SPG suggests that a distance of 5-6 metres should be secured to sensitive boundaries, on balance the situation as proposed here is considered acceptable.

No 3 Grove Park has a sunroom looking directly towards the roof windows in the east roof slope of the proposed dwelling. Taking a first floor level of 2.7 m above ground level, the cill height of the proposed roof windows would be some 2.3m above floor level; this exceeds the 1.7m cill height required in the General Permitted Development Order to maintain privacy when extensions are permitted development. It is considered that at this height there would be no views down towards the adjacent dwellings available from the bedrooms. Accordingly there would be no issue of overlooking from the roof windows of that sunroom or private garden space that is causing concern to the occupiers. It would be difficult to sustain an objection based on this objection.

No 87 Egginton Road is concerned that a proper assessment of the impact of the development is not possible because of the lack of an up to date plan. Officers have visited the premises and observed the extensions to that property and the relationship to the proposed dwelling. The only views towards 87 Egginton Road would be from the first floor bedroom window but this is to be obscure glazed and as such there would be no issue of overlooking of 87 Egginton Road in its extended form.

Conditions are proposed to ensure that the level of obscure glazing is provided and retained prior to the occupation of the dwelling to ensure that there are no overlooking issues arising from the development.

The access would be from Egginton Road and the County Highway Authority is satisfied that this would be safe subject to visibility being improved for emerging vehicles. This improvement can be secured through the imposition of a planning condition and this is recommended.

In the light of the above, planning permission is recommended subject to conditions.

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the following approved plans: 1060L/01, /02, /08, /09 and the amended Design and Access Statement dated March 2013.

Reason: For the avoidance of doubt.
3. The windows serving the rooms in the west elevation of the converted outbuilding but excluding rooflights and the windows to the link block shall be permanently glazed in obscure glass in accordance with a scheme first approved in writing by the Local Planning Authority. Once installed these windows shall be permanently retained with obscure glass.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), there shall be no external alterations, including the insertion of new windows, to the buildings other than as approved under this permission unless the Local Planning Authority has granted planning permission in response to an application made in that regard.

Reason: In the interests of ensuring alterations do not impact on the residential amenity of adjacent dwellings without these first being considered by the Local Planning Authority.
5. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwelling hereby permitted shall not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

6. Prior to the occupation of the dwelling hereby permitted the garage and manoeuvring area granted planning permission under ref 9/2013/0096 shall have been constructed and available for use in accordance with that planning permission.

Reason: In order to ensure that adequate space is available to serve both dwellings within the curtilage of No 89 Egginton Road.

7. Prior to the commencement of building works to convert the buildings, the boundary hedgerow shall be reduced in height to a level no greater than 600mm above the adjacent carriageway channel level and shall thereafter be retained at that height for the duration of the development.

Reason: In the interests of highway safety.

8. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets.

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

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

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

10. 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 extensions and the making good of brickwork within the buildings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

11. 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.

Item 1.6

Reg. No. 9/2013/0111/OX

Applicant:
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c/o Agent

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Planning Limited
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TF11 9BH

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS AND LAYOUT TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF 9 DWELLINGS AND CONSTRUCTION OF A VEHICULAR ACCESS AT LAND AT SK2530 0390 DERBY ROAD HILTON DERBY**

Ward: **HILTON**

Valid Date: **19/02/2013**

Reason for Committee Determination

The application site lies outside the village confine for Hilton (as identified in the adopted Local Plan) and as such the grant of Planning permission on this site, would be contrary to the Development Plan.

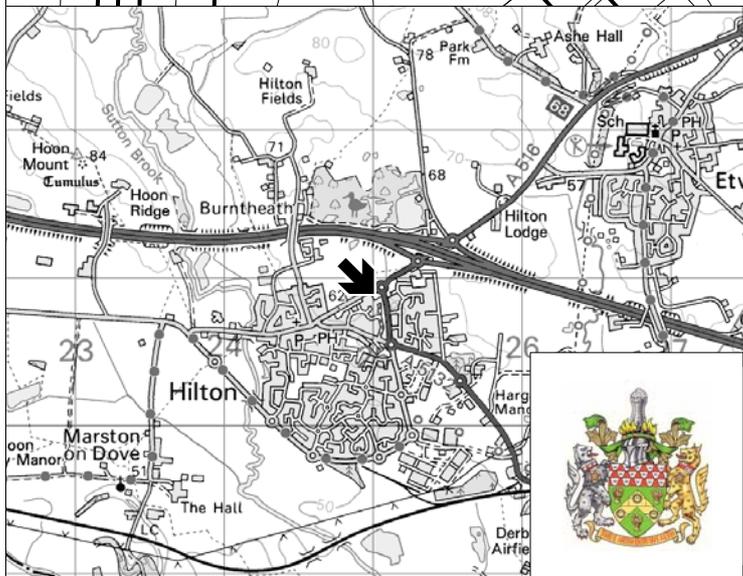
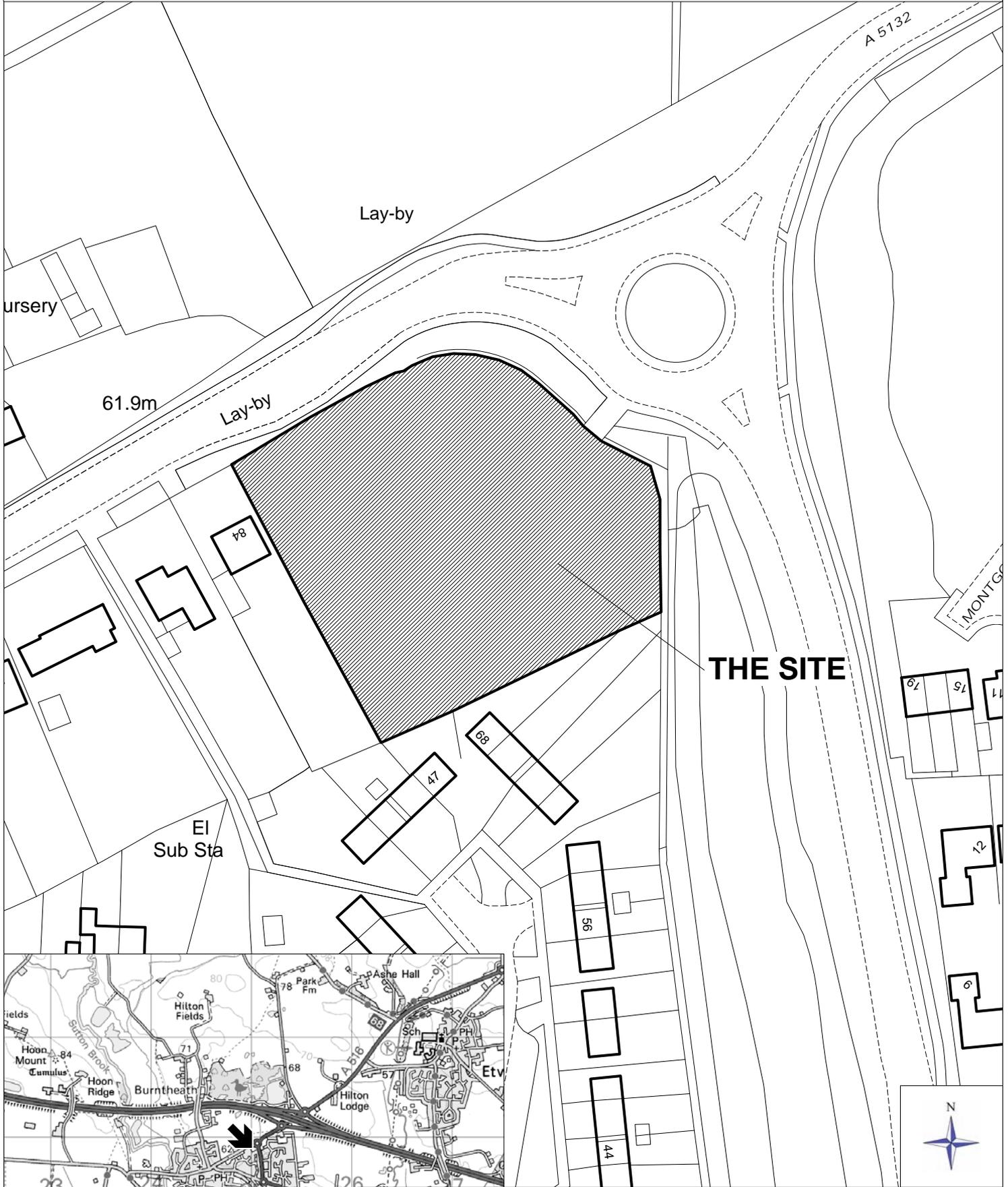
Site Description

The area is a flat field with tussock grass enclosed on three sides by hedges the site is approximately 0.4ha. To the south of the site is the housing development on New Road, to the west is a 84 Derby Road, a 1930's style detached dwelling, Derby Road lies to the north and beyond that is open fields and to the east is The Mease and its junction with Derby Road. Drainage ditches follow the east and south boundaries.

Proposal

As described the proposal is in outline and seeks permission for the access and layout of the development. All other matters are reserved for subsequent approval. The layout proposes frontage development to Derby Road - three plots, and two dwellings with dual fronts to The Mease/Derby Road junction where rear gardens would be following this junction boundary. Four plots would be sited on the south part of the site. Access would be constructed at the west boundary of the site adjacent to 84 Derby Road boundary.

9/2013/0111 - Land at SK2530 0390, Derby Road, Hilton, Derby (DE65 5FP)



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Applicants Supporting Information

A Planning Statement, a Design and Access Statement, an Ecological Appraisal and a Transport Statement each of which are available for inspection on the application file. The documents can be summarised as follows:

Planning Statement

It is acknowledged that the site lies outside the development boundary for Hilton as drawn on the Proposals Map accompanying the Local Plan. However, it is argued that an appeal decision at Church Croft, Coton in the Elms, where a similar site outside the development boundary, for housing development was granted planning permission on the grounds that the development was 'within the compass of the existing village built development' by the appeal Inspector. It is argued that the same circumstances apply to this development and the Committee should have regard to that decision in determining this planning application.

The site, it is argued forms a part of the wider built development for Hilton, Hilton is a sustainable location for built development with a wide range of shops, community facilities, employment sites and bus services. Published information relating to the Strategic Housing Land Availability Assessment (SHLAA) identifies the site as suitable, available and achievable to accommodate residential development. Each of these words appears in the NPPF as being requirements for land to be considered a part of a 5-year Housing Land Supply target.

It is argued that the Local Plan is out of date and the policies in it cannot be afforded any great weight. [*Members should note that the Regional Plan ceased to be a part of the Development Plan on 12 April 2013 and as such reference to it by the applicants has been omitted from this report.*] Whilst Housing Policy 5 seeks to limit built development at Hilton to areas within the development boundary, the age of the plan means that caution should be exercised in relying on that boundary. The NPPF is very clear in that where a policy is out of date the importance of the NPPF as a material consideration is increased to a point where local out of date policies are overridden.

The land was originally reserved to accommodate a junction to Derby Road to facilitate the development at Hilton Depot and Hilton Common. The ultimate junction design meant that the application site was no longer required and it has lain undeveloped since that time albeit without any protection as an area of important open land.

It is argued that the site lies within the wider physical confines of Hilton as it is bounded on all sides by housing development or roads that provide a physical barrier to further housing development. The site cannot be considered as a part of the countryside to which Housing Policy 8 and Environment Policy 1 apply as it clearly lies within the physical confines of the settlement.

In the light of the above the provisions of the NPPF are applicable in terms of it being a significant material consideration in the light of an out of date Local Plan. The Local Planning Authority would struggle to argue that there is a 5-year supply of housing land available and that the application site is immediately available for development and this is another significant requirement of the NPPF. In policy terms the applicants argue that the development should be granted planning permission.

Design and Access

The site layout, subject to the current planning application, proposes the retention of the existing boundary vegetation, and proposes that the opportunity exists for the enhancement of the landscape buffer along the A5132, The Mease, to create a landscape setting for the development. It is stated that the proposed layout respects existing development patterns on Derby Road, the houses on The Mease/Derby Road junction would be dual aspect to provide a satisfactory appearance for users of these main roads whilst the garden area would retain some of the openness of this existing frontage albeit with a change to the character of the existing open views across the site.

The layout can achieve the required open space between dwellings, notwithstanding the secondary side windows to No 84 a minimum separation of 13.5m is shown. The views into the site from the houses on New Road are at a distance from the new dwellings that space around buildings standards are achieved, it is argued.

Access

Subject to the bus stop being relocated, it is argued that the site can be accessed from Derby Road in a manner that should be acceptable to the County Highway Authority.

Ecology

It is stated that the site has no inherent ecological value, and the provision of additional hedge and tree planting would enhance the ecological value of these boundary features. The main grassed area of the site has no flora species of ecological interest within it and there would be no loss of habitat.

The applicants conclude that the site would deliver an attractive development of a density that is in keeping with the area and provide adequate space about dwellings with defensible spaces. The application proposals also provide an opportunity to enhance the views into the site from the east through the extension of the liner landscape buffer along The Mease.

Planning History

As noted by the applicant the land was allocated in the Local Plan to provide sufficient land for an access to the Hilton Depot from Derby Road, there is no other planning history relevant to the consideration of this application.

Responses to Consultations

Councillor Mrs Plenderleith has written in support of constituents concerns about drainage issues, particularly in respect of surface water.

The County Highway Authority has no objection to the development subject to conditions relating to the construction of the junction and the onsite roads. Attention is drawn to a highway improvement line designated under the 1925 Highways Act. The developer would be responsible for the costs of rescinding the Order.

Severn Trent Water has no objection subject to details of surface and foul water drainage being submitted.

The Derbyshire Wildlife Trust has no objection and confirms that there is no known species rich grassland on the field but is concerned that existing hedges and trees be retained. If hedges or trees are to be removed, it should occur outside the bird-breeding season. A condition is recommended.

Land Drainage Officer is aware of surface water flooding issues arising from the ditches adjacent to the site. A surface water drainage scheme is necessary to ensure that the issue is addressed.

Responses to Publicity

Two letters have been received, one objecting to the resiting of the bus stop in front of a property and the other expresses concern that the land is subject to planning would drain to the ditches that already cause problems from blocked culverts and the like. The whole system needs redigging and should be undertaken before the development is commenced. It is alleged that newts and frogs live in the ditch.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policy 5, 6 & 8, Environment Policy 1

National Guidance

The NPPF at paragraph 215 & 28,

Planning Considerations

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

- The Development Plan and the NPPF
- Other Material considerations
- Section 106 matters

Planning Assessment

The Development Plan

The weight to be attached to Local Plan policies is dependent on their level of consistency with the NPPF Para. 215. The adopted Local Plan contains numerous saved policies relating to residential development and development within the countryside which are considered to be consistent with the NPPF. Housing Policy 5, 6 and 8 and Environment Policy 1 are the most relevant to this application.

Housing Policy 5 states *'New housing development in villages will be restricted to that which can be accommodated within the village confines.'* The application site is outside but adjacent to the defined settlement boundary of Hilton in the Adopted Local Plan and is surrounded by residential development immediately to the south and west sides. The construction of the roundabout and the A5132 since the adoption of the Local Plan,

which abuts the site to the northeast and east, has changed the character of the defined settlement boundary at this location to the extent that these features now provide a new strong physical boundary to the edge of Hilton. It is not therefore considered that the proposal, whilst outside the settlement boundary of Hilton, would have any material detrimental effect on the character of the settlement by virtue of its scale and location. In these circumstances, the other Local Plan policies are no longer relevant to the outcome of the application.

In the light of this, it is considered that the application site is a justifiable departure from Housing Policy 5 of the Adopted Local Plan and a planning policy reason for refusal could not be sustained at appeal.

Other Material Considerations

Housing Design and Layout - Where new houses look towards adjacent properties, adequate space standards are met. In determining the application the Committee can be satisfied that the layout meets adopted standards.

Foul and surface water drainage issues have been raised as a consideration in the determination of this application. Severn Trent Water has raised no objection but requires that drainage issues be subject to a planning condition and a condition to this effect is recommended. The Council's Land Drainage Officer has acknowledged a surface water flooding issue but acknowledges that it can be resolved by the imposition of a condition as above. An informative is recommended to draw attention to the scope of the problem.

Section 106 Issues

The applicants have agreed to provide contributions to meet education and health needs of the area subject to these elements being justified. Public open space provision would be provided off site but the applicants are unwilling to meet the costs based on the number of bedrooms provided and offers 70% bedroom occupation as a reasonable compromise. The Local Planning Authority guidance is that contributions for open space be provided on the basis of 1 person per bedroom provided with an overall cost of £714 per bedroom. If all the proposed dwellings had four bedrooms then that equates to a contribution of £25,704 and at the 70% figure the contribution would be £17,993. Discussions on this issue are ongoing and any update would be reported at the meeting if available.

Conclusion

In the light of the above and subject to a signed unilateral undertaking being received then it is considered that whilst the development is contrary to the provisions of the Development Plan, material considerations in the form of the NPPF dictate that planning permission be granted for this development as, whilst outside the settlement boundary of Hilton, the proposal would not have any material detrimental effect on the character of the settlement by virtue of its scale and location. Accordingly, planning permission is recommended.

Recommendation

Subject to the receipt of a signed unilateral undertaking for the provision of health and education facilities, where justified, and public open space, **GRANT** permission subject to the following conditions:

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

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

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

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

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

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

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

4. 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 submitted scheme shall also show details for the disposal of highway surface water separate to the main site surface water drainage details. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

5. Prior to any other works commencing, the bus stop shall be relocated and a bus shelter provided in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority (Public Transport Unit).

Reason: The relocation of the bus stop is necessary to facilitate the development and as such details of the new bus stop are required to ensure appropriate replacement facility is available prior to the development of the site being commenced.

6. Prior to any other works commencing (excluding condition 5 above), the street lighting column fronting the site shall be relocated in accordance with a scheme

first submitted to and approved in writing by the local Planning Authority in consultation with the County Highway Authority (Street Lighting section).

Reason: The relocation of the lamppost is necessary to facilitate the development and as such details of the new position of the lamppost are required to ensure appropriate replacement facility is available prior to the development of the site being generally commenced.

7. Prior to any other works commencing (excluding conditions 5 & 6 above), the bus layby shall be reinstated as highway comprising a 2m wide footway adjacent to the Derby Road carriageway and a grass verge to the rear, all laid out and constructed to Derbyshire County Council's standards for adoptable roads in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority.

Reason: In order to ensure that the bus layby is restored as a part of the highway in the interests of highway safety.

8. Before any other operations are commenced, excluding Conditions 6 & 7 above, a temporary access shall be formed into the site for construction purposes, and space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives and visitor's vehicles, loading and unloading of goods vehicles, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

9. Throughout the period of construction, wheel washing facilities shall be provided within the site and used to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interests of highway safety.

10. Before any works commence within the site curtilage (excluding condition 8 above) the new estate street junction shall be formed to Derby Road, located, laid out and constructed in accordance with the application drawing, having a minimum width of 4.8m, provided with 2 x 2m footways and 6m radii. Notwithstanding the submitted drawings, the access shall be provided with visibility splays extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 103 metres to the west and 59m to the east, measured along the nearside carriageway edge. The area in advance of the sightlines shall unless otherwise agreed in writing by the Local Planning Authority be level, form part of the new street, constructed as footway and verge and not form part of any plot or other sub-division of the site.

Reason: In the interests of highway safety.

11. The premises, the subject of the application, shall not be occupied until the proposed new estate street between each respective plot and the existing public highway has been laid out in accordance with the application drawings to conform to the County design guide and specifications for adoptable roads, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

12. The premises, the subject of the application, shall not be occupied until space has been provided within the application for the parking and manoeuvring of residents', visitors', service and delivery vehicles (including secure covered cycle parking), laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: To ensure that adequate parking/garaging and vehicle manoeuvring provision is available.

13. Bin stores shall be provided within private land at the entrance to shared private accesses, in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In order to ensure that space is available clear of the highway for bin storage in the interests of maintaining the highway free from obstruction.

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

Reason: In the interests of highway safety.

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

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

16. 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.

17. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the buildings, and the character of the area.

18. No removal of hedgerows, trees or brambles shall take place between 1st March and 31st August inclusive unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

Reason: in the interests of ensuring that breeding the works to implement the planning permission does not disturb breeding birds.

Informatives:

The County Highway Authority advises as follows:

- a) Pursuant to Section 184 of the Highways Act 1980, and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months' prior notification should be given to the Environmental Services Department at County Hall, Matlock (Tel: 01629 538589) before any works commence on the vehicular access within highway limits.
- b) The Highway Authority recommends that the first 5m of any proposed access driveway should not be surfaced with a loose material (ie unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the individual householder.
- c) Pursuant to Section 163 of the Highways Act 1980, where a plot curtilage slopes down towards the new estate street, 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 gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- d) Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Environmental Services Department at County Hall, Matlock. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.
- e) Pursuant to Section 38, and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Department of Environmental Services at County Hall, Matlock.
- f) Approval with regard to the relocation of the bus stop and the provision of a bus shelter will be required from Derbyshire County Council's Public Transport Unit, the applicant should contact the Public Transport section on 01629 580000.
- g) With regard to the relocation of the street lighting column, the applicant should contact Derbyshire County Council's Street Lighting section on 01629 580000.
- h) Traffic management measures may be necessary during the works on Derby Road. All traffic management detail shall be submitted and approved in writing by Derbyshire County Council's Traffic section (01629 538592) prior to implementation.
- i) The applicant is advised to ensure that the future maintenance responsibilities of the shared accesses/driveways are clearly defined within the deeds of the individual properties.
- j) The site is affected by a Building Line prescribed under the Road Improvement Act 1925. The Line will need to be rescinded before any development can take place. The applicant should contact Derbyshire County Council's Highway Records section (01629 538697) and be aware that there is a fee for this service to cover legal and administration costs (currently £100.00).

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

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

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

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

Item 1.7

Reg. No. 9/2013/0162/FH

Applicant:
Mr Kevin Stackhouse
14 Bramley Dale
Church Gresley
Swadlincote
DE11 9RT

Agent:
Mr David Robinson
Up The Garden Path
10 Paget Drive
Burntwood
Staffordshire
WS17 1HP

Proposal: **THE ERECTION OF A PERGOLA, RETAINING WALLS,
GARDEN SHED AND DECKING AND ALTERATIONS AT
14 BRAMLEY DALE CHURCH GRESLEY
SWADLINCOTE**

Ward: **SWADLINCOTE**

Valid Date: **14/03/2013**

Reason for committee determination

The application has been brought to Committee, as the applicant is an employee of the Council.

Site Description

No.14 Bramley Dale, Church Gresley is a detached brick and tile, two-storey dwelling, the rear garden of which abuts Hall Wood, an ancient protected woodland.

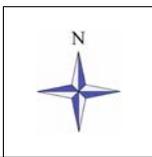
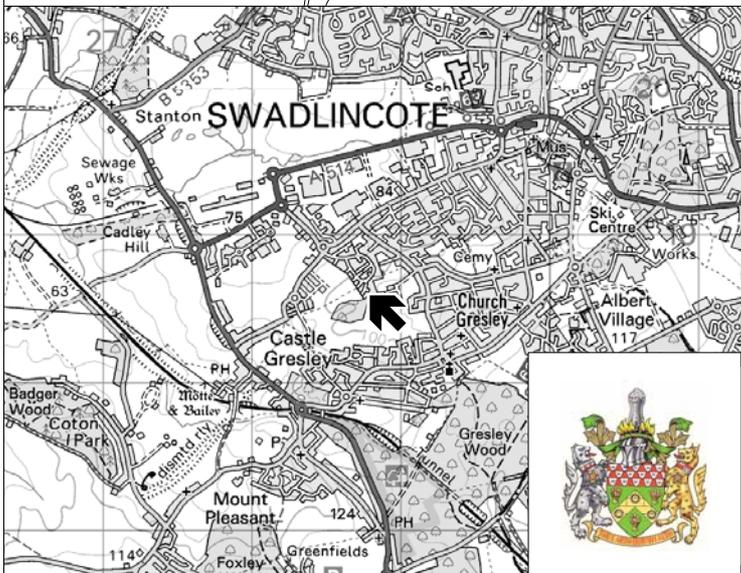
Proposal

It is proposed to re-design the rear garden of the dwelling. Details of the proposed works include the erection of:

- 2m by 700mm high rendered wall with focal feature
- a sleeper retaining wall around the stone paved area
- a sleeper retaining wall around the new shed and decking area
- a new 3m x 1.8m shed
- a timber pergola with polycarbonate roof over the main decked area
- 1.8m high trellising adjacent to the rear elevation of the dwelling

Applicants' supporting information

9/2013/0162 - 14 Bramley Dale, Church Gresley, Swadlincote DE11 9RT



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None submitted.

Planning History

Members will recall that at the meeting of the Planning Committee held on 11th December 2012 it was resolved to remove certain permitted development rights for 7 properties on Bramley Dale (all of which share a common boundary with Hall Wood) as a way of protecting the woodland against ancillary residential development that could undermine the integrity of the wood, and as a way of protecting unregulated buildings from foundation damage through the growth of adjacent tree roots. The only mechanism available to the Council in this regard is to make an Article 4 Direction, and this was duly made on 25th January 2013, with residents being notified on 29th January 2013. The Article 4 Direction is now confirmed.

Responses to Consultations

The Council's Tree Officer concludes that the works proposed within the application would not impact on the trees in the adjacent woodland, which is protected by Tree Preservation Order No.48 W1.

Responses to Publicity

None received

Development Plan Policies

The relevant policies are:
Local Plan Saved Policies: H13 and Env 9

National Guidance

National Planning Policy Framework (NPPF), paragraphs, 56, 57 and 118.

Planning Considerations

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

- the impact of the proposal on the adjacent Hall Wood
- liveability issues for the residents

Planning Assessment

Impact on Hall Wood

Under normal circumstances garden design involving fencing and structures would be permitted development under the Town and Country Planning (General Permitted Development) Order, unless the fences and other means of enclosure were above 2m in height. In this instance, No.14 Bramley Dale is one of seven properties that have had permitted development rights removed under Classes A (extensions or alterations), B (alterations to a roof), D (external porches) and E (curtilage buildings, enclosures, swimming or other pools or the maintenance, improvement or other alterations of such buildings or enclosures). The only method of removing permitted development rights is by way of issuing an Article 4 Direction, and this was agreed by the Planning Committee

at the meeting on 11th December 2012, following an incident involving the failure of an unregulated (p.d.) domestic extension at another property on Bramley Dale owing to ground subsidence caused by the intake of water by trees in the adjacent Hall Wood. The Article 4 Direction is now confirmed hence the need for permission.

In terms of policy, Local Plan Saved Policy 9 relates to the protection of trees and woodland, and states, among other things, that development will not be permitted which would lead to the loss of areas of woodland or specimen trees of value to their landscape setting.

Bullet point 5 of paragraph 118 of the NPPF states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

It is evident that the amount of development proposed is minimal in terms of its impact on the adjacent woodland, with the majority of the proposals being located well away from the common boundary. The closest structure would be the freestanding wall and focal feature, positioned at 2m from the boundary in the south west-facing corner of the garden. The Council's Tree Officer has assessed the position of the wall and its foundations in relation to the woodland and is not unduly concerned.

Impact on residential amenity (liveability issues)

None of the development proposals are likely to affect the amenities of the occupiers of the property, as they relate solely to garden features rather than domestic extensions. The only feature likely to affect the amount of light currently enjoyed by the rear of the dwelling is the proposed pergola, although by their very nature pergolas are fairly open structures and its proposed polycarbonate roof will allow natural light to pass through. It is considered, therefore, that by allowing the proposed development, there is no likelihood of pressure being put on the Council to remove any trees in Hall Wood.

In conclusion, the proposed landscaping works would not undermine the integrity of Hall Wood or specifically lead to any justifiable applications to fell any trees within the woodland. Neither would they result in the amenities of the occupiers of the property being adversely affected. The proposals are therefore in accordance with Local Plan Saved Environment Policy 9 and paragraph 118 of the NPPF.

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. This permission shall relate to the designs received on 2 April 2013 and in particular shall be constructed in accordance with those drawings only.

Reason: To ensure adequate foundations/structures are unaffected by the nearby protected woodland.

Item 2.1

Reg. No. 9/2013/0180/NO

Applicant:
Mr K Page
1 Middle Place
Sunnyside
Newhall
Swadlincote
DE11 0TN

Agent:
Mr Andrew Large
Andrew Large Surveyors
The Estate Office
Staunton Harold Hall
Melbourne Road
Ashby de la Zouch
Leicestershire
LE65 1RT

Proposal: **ERECTION OF A VEHICULAR REPAIR WORKSHOP AT
LAND AT MIDDLE PLACE SUNNYSIDE NEWHALL
SWADLINCOTE**

Ward: **REPTON**

Valid Date: **14/03/2013**

Reason for committee determination

The application is brought before the Committee as the request of Councillor Stanton as there are unusual site circumstances that should be considered by committee.

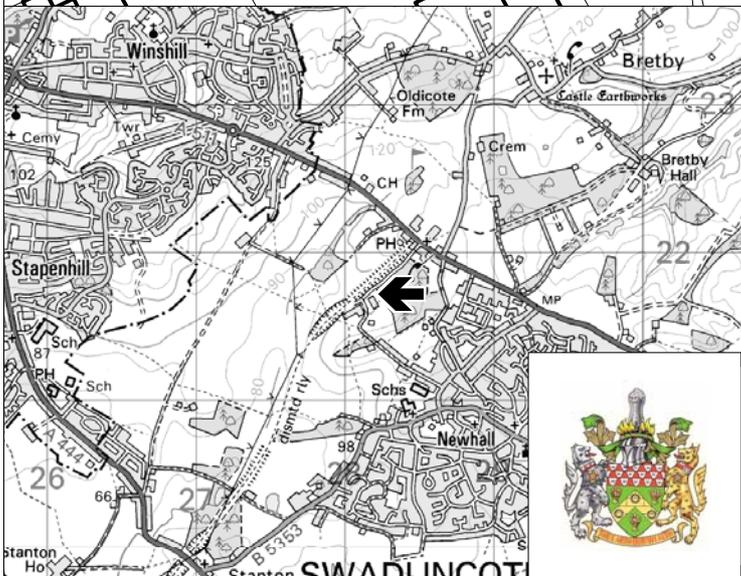
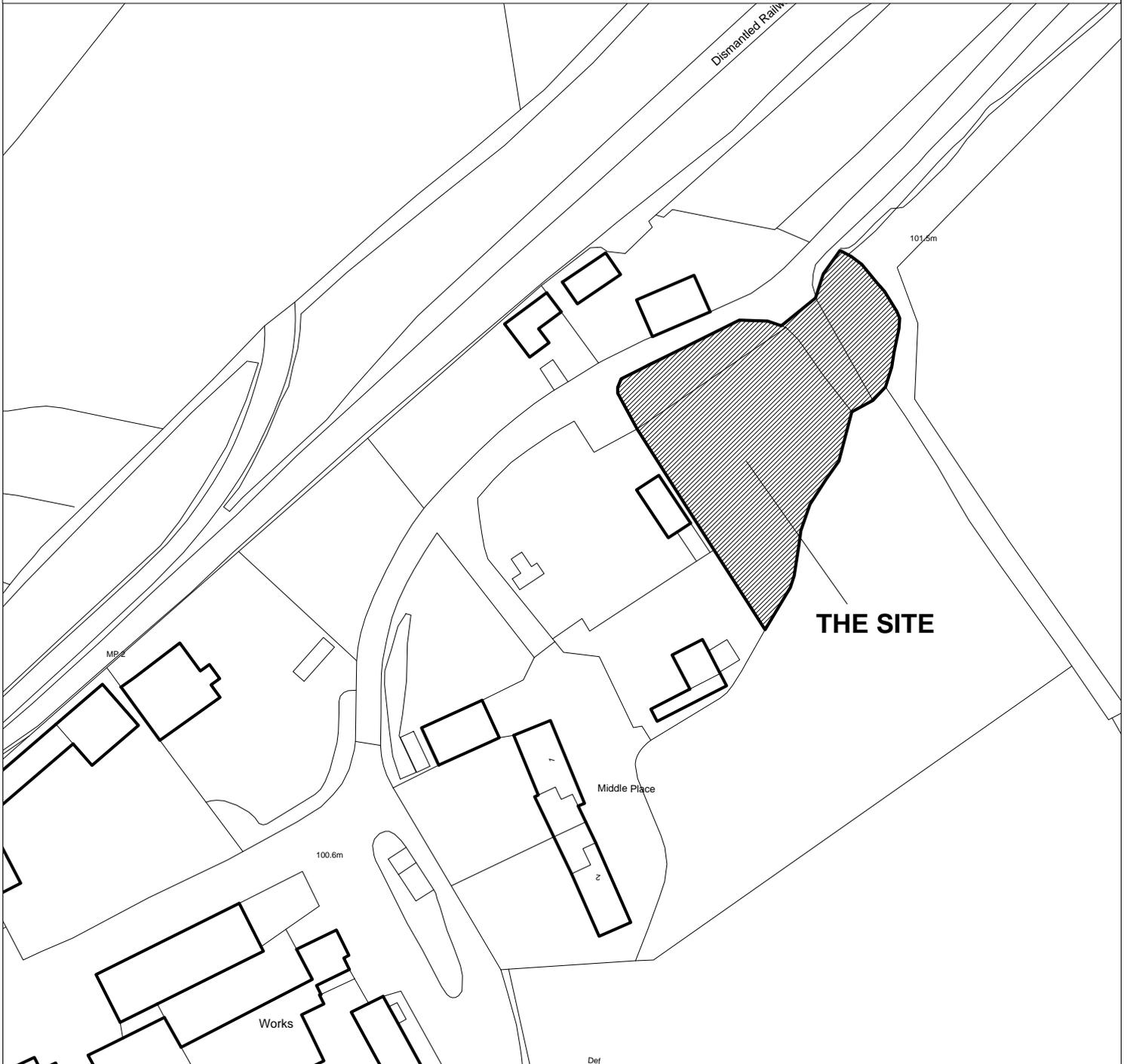
Site Description

The application site is located within Bretby Stoneware Industrial Estate, a site occupied by a number of small commercial businesses, some located within the converted former brick and stoneware industry building on site and a number of agricultural buildings. The site is located within the Greenbelt and accessed from Ashby Road East by a single lane track. Swadlincote Footpath 84 runs to the south east of the site at a higher level and Swadlincote Footpath 86 runs to the south west. The site is subject to woodland TPO No. 76 with the trees located to the north and north east of the site forming the predominantly denser part of the TPO. The adjacent site is used by a plant hire business with an office/store building approximately 9m to the ridge permitted in 2002 to replace unsightly buildings on the site.

Proposal

The application seeks to erect a commercial vehicle repair workshop on a site with a current lawful use for B8 (storage and distribution), recognised under a 'certificate of lawfulness' (CLEUD) (9/2010/0632), and currently comprises of a number of containers 'rented out to individuals and companies on a self-storage basis'. The proposed

**9/2013/0180 - Land at Middle Place, Sunnyside, Newhall, Swadlincote
DE11 0TN**



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South Derbyshire District Council. LA 100019461. 2010

workshop would measure of 20.2m x 15m with a ridge height of 8m, eaves height of 5m, and be constructed of lapped larch boarding above red brick with metal profiled sheeting roller shutter doors coloured dark green.

A draft Unilateral Undertaking has been submitted with the application, which proposes the cessation of the lawful B8 use on the application site and of the existing B2, vehicle repair business, on the adjacent site owned by the applicant. The submitted details advise that the cessation of these existing uses are significant material considerations that outweigh the normal presumption against proposed development in the Green Belt.

Applicants' supporting information

The Design and Access Statement includes a description of the site and the surrounding businesses adjacent to the site. It states that the proposal would improve the amenities of No.1 and No.2 Middle Place as it would remove an industrial use within their curtilages. The existing business employs three full time staff. It considers that the proposal is an exception to Green Belt Policy as it constitutes previously developed land with a B8 use class which has many containers and diggers on site at present. Pre-application consultation on the 2012 application with the Council advised that refusal was likely due to the Green Belt designation. The very special circumstances for allowing development area better working conditions as the existing buildings are not large enough to repair vehicles and thus outside working is necessary. The applicant is happy to have a personal permission for the building. There are no restrictions on the heights of the storage containers or number at present. The site is characterised by commercial premises and the proposed building would be adjacent to a similar height building. Suitable screening could be achieved and vehicle movements would reduce. The height of the building would be 8m to the ridge and 5m to the eaves which is lower than the adjacent building. The proposed materials of vertical lapped larch boarding above red brick is considered to give a more natural appearance.

The Coal Mining Risk Assessment concludes that risks are negligible apart from coal seams at or close to the surface which would require mitigation.

Planning History

9/2010/0632 – CLEUD B8 (Storage and Distribution) 3.09.10

9/2012/0056 – CLEUD Car & commercial vehicle repair - B2 (General Industrial) Use – 23.03.12 (adjacent site).

9/2012/00818 - The erection of a commercial vehicle repair workshop, refused 19/12/12

“The application site is located within the Green Belt. Saved Green Belt Policy 4 of the South Derbyshire Local Plan advises that planning permission will not be granted for development of an urban character in the Green Belt. NPPF paragraph 79 advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence. NPPF paragraph 87 advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 89 advises that the construction of new buildings should be considered as inappropriate unless it accords with one of the exceptions listed in the guidance. At paragraph 88 the guidance advises that Local Planning Authorities should ensure that substantial weight is given to any harm to the

Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of appropriateness, and to any other harm, is clearly outweighed by other considerations.

The proposal represents a new commercial building within the Green Belt and does not constitute one of the exceptions listed in national guidance that would justify permitting development. Whilst the character of this part of the Green Belt has been to some extent eroded by existing uses and structures on both this and adjacent sites, the cessation of the existing uses proposed in place of the proposed building is not considered to outweigh the visual harm and urbanising effect which would further compound and erode the character of the Green Belt in this location and would be clearly visible from the public footpath to the southeast. As such, the proposal is contrary to the above policy and guidance.

Furthermore, the proposal represents a new industrial development within the rural area contrary to Saved Employment Policy 5 of the Local Plan”.

Responses to Consultations

The Highway Authority states that the proposal does not appear to differ from the previous application, in highways terms. Therefore, in line with earlier comments, there are no objections subject to a condition requiring the parking / loading and unloading and manoeuvring of visitors / staff customers/ service and delivery vehicles to be laid out prior to occupation of the building.

The Contaminated Land Officer has no objection subject to a condition to identify and remediate any potential land contamination on site.

Severn Trent Water has no objection.

The Coal Authority has advised that the submitted Coal Mining Risk Assessment sufficiently demonstrates that the site is, or can be made, safe and stable for the proposed development and has no objection.

Responses to Publicity

Two letters of objection have been received from a neighbouring business on Sunnyside. Objections are summarised as follows:

- a) Existing mature trees would be affected by the workshop building.
- b) Their business would be affected by noise emitted from the building.
- c) The existing containers are not much higher than the fence and don't detract too much from the area, however, recently two containers have been placed on top of each other to make it more of an eyesore.
- d) The access is unsuitable for more HGVs
- e) There appears to be no thought regarding the management of waste.
- f) The site is within 50m of a watercourse.
- g) The proposal is not in keeping with the conservation area that borders the site.

Five Letters of support have been received, some from neighbouring businesses on Sunnyside. Reasons are summarised as follows:

- h) The land was previously owned by them and was part of seven acres of industrial curtilage and there are 19 companies within the industrial area.
- i) In the 1940s and 1950s the area was used for storage of bricks and sanitary ware with a wooden building on site.
- j) The applicant has used the land from 1972 and bought it in 1994.
- k) The residents of No.2 Middle Place welcome the application as it would remove vehicles parking nearby and blocking their access together with containers.
- l) No.2 Middle Place considers the present situation with open storage of vehicles to be a security risk.
- m) The previous refusal reason is beyond belief as the existing two storey building at Hornsby Plant Hire, the existing workshop and garage are all visible from the public footpath.
- n) A customer of the applicant states the workshop is required in order to keep up with increases in business and it would mean access to their premises would not be restricted by the applicant's vehicles.
- o) A customer of the applicant considers that the proposal should be accepted as it provides work and employment.
- p) The County Councillor for Newhall and Seales Division states that the removal of equipment adjacent to the house would tidy up the site and provided it was kept within the compound it would not go into Green Belt land.

Development Plan Policies

The relevant policies are:

Saved Local Plan: Policies Environment 5, Environment 9, Green Belt 4 and Transport 6

National Guidance

NPPF paragraphs 28, 79, 80, 87, 88, 89

Planning Considerations

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

- The Principle of Development
- Trees
- Highway Safety

Planning Assessment

Saved Green Belt Policy 4 advises that planning permission will not be granted for development of an urban character, such as industry, commerce, office development and retailing in the Green Belt. The proposed scheme that involves the reduction in roof height by 1m and different external materials from the previously refused application in 2012 does not change the fact that this type of development is not acceptable in principle within the Green Belt.

Employment Policy 5 advises that industrial development in rural areas will not be permitted other than within or on the edge of existing villages. The site is located within the countryside and thus is contrary to this policy too.

Whilst NPPF paragraph 28 supports the sustainable growth and expansion of business in rural areas, the site is situated within the Green Belt. NPPF paragraph 79 advises that the fundamental aim of Green Belt policy is to “...*prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence*”. NPPF paragraph 87 advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. At paragraph 88 the guidance advises that LPAs should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of appropriateness, and to any other harm, is clearly outweighed by other considerations.

The construction of new buildings should be considered as inappropriate unless it accords with one of the exceptions listed (NPPF, para 89). These exceptions include: buildings for agriculture and forestry, recreation facilities, cemeteries, extensions or alterations to existing buildings in proportion to the building, replacement buildings, limited infill of villages or limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

The proposal represents a new commercial building within the Green Belt and does not accord with any of the exceptions listed at paragraph 89 of the NPPF that would justify consideration of approval. The site does have permission for a B8 use, however, there are only temporary storage containers on site and no buildings. The proposal for a permanent building on site is considered to have a greater impact on the openness of the Green Belt than the temporary structures that exist on site at present and as such the proposal is not considered an exception in relation to this policy. Whilst the character of this part of the Green Belt has been to some extent eroded by existing uses and structures on both this and adjacent sites, the cessation of the existing uses proposed in place of the proposed building is not considered to outweigh the visual harm and urbanising effect which would further compound and erode the character of the Green Belt in this location and would be clearly visible from the public footpath to the southeast.

Furthermore, whilst the proposal is to relocate and enlarge a commercial business that is currently operating on another part of the site, recognised under a CLEUD, the proposal in effect represents a new industrial development within the rural area and as such is contrary to Saved Employment Policy 5.

The location of the proposed building is considered to be sufficient distance from protected oak trees on the edge of the site so as not to adversely impact on their health.

On the advice of the local highway authority, highway safety would not be adversely affected by the proposal and the original consultation in 2012 was based on consideration of the existing and proposed uses and that the vehicle trips associated with a B8 use would generally outweigh those for B2 and, therefore, it would be difficult to sustain an objection.

Other matters raised by objections or letters of support that require clarification are that the site does not bound a conservation area. The established use of the compound was

agreed in the CLEUD application in 2010. Employment for local people and the business case do not override the Green Belt policy.

In the absence of any 'very special circumstances' the proposal is considered contrary to the above policies and guidance and is therefore recommended for refusal.

Recommendation

Refuse permission for the following reason:

1. The application site is located within the Green Belt. Saved Green Belt Policy 4 of the South Derbyshire Local Plan advises that planning permission will not be granted for development of an urban character in the Green Belt. NPPF paragraph 79 advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence. NPPF paragraph 87 advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 89 advises that the construction of new buildings should be considered as inappropriate unless it accords with one of the exceptions listed in the guidance. At paragraph 88 the guidance advises that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of appropriateness, and to any other harm, is clearly outweighed by other considerations.

The proposal represents a new commercial building within the Green Belt and does not constitute one of the exceptions listed in national guidance that would justify permitting development. Whilst the character of this part of the Green Belt has been to some extent eroded by existing uses and structures on both this and adjacent sites, the cessation of the existing uses proposed in place of the proposed building is not considered to outweigh the visual harm and urbanising effect which would further compound and erode the character of the Green Belt in this location and would be clearly visible from the public footpath to the southeast. As such, the proposal is contrary to the above policy and guidance.

Furthermore, the proposal represents a new industrial development within the rural area contrary to Saved Employment Policy 5 of the Local Plan.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated
9/2012/0701	Newhall	Newhall	Allowed	Committee



Appeal Decision

Site visit made on 5 March 2013

by P N Jarratt BA(Hons) Dip TP MRTPI

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

Decision date: 21 March 2013

Appeal Ref: APP/F1040/A/12/2187093

183 Wood Lane, Newhall, Swadlincote, Derbyshire, DE11 0LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Dean White against the decision of South Derbyshire District Council.
 - The application Ref 9/2012/0701/FH, dated 13 August 2012, was approved on 30 October 2012 and planning permission was granted subject to conditions.
 - The development permitted is the retention of a garden structure.
 - The condition in dispute is No 1 which states that: Notwithstanding the submitted details, the building shall be clad completely in timber to match the adjacent shed (including the roof) no later than four months from the date that (sic) of this permission.
 - The reason given for the condition is in the interests of the appearance of the building and the character of the area.
-

Decision

1. The appeal is allowed and the planning permission Ref 9/2012/0701/FH for the retention of a garden structure at 183 Wood Lane, Newhall, Swadlincote, Derbyshire, DE11 0LY, granted on 30 October 2012 by South Derbyshire District Council, is varied by deleting condition 1 and substituting for it the following condition:
 - 1 The timber cladding of the walls of the structure and the covering of the roof in roofing felt shall be permanently retained except where otherwise agreed in writing by the local planning authority.

Main Issue

2. The main issue in this appeal is whether the condition in dispute is reasonable and necessary in the interests of the appearance of the structure and the character of the area.

Reasons

3. The appeal site is the sloping rear garden of a semi-detached house situated in a residential area. There is a Tree Preservation Order on a group of trees to the rear of the garden. In October 2012, the Council granted planning permission for the retention of a garden structure that houses a golf simulator. The structure is significantly higher than nearby garden sheds on the appeal site and in neighbouring gardens. At the site inspection I was able to view the structure from the rear garden of 14 Bretby Heights, which backs on to the

appeal site, and from which the structure appears prominent, rising well above the boundary fence.

4. In granting planning permission, the Council considered that when clad in wood, the structure would be of an acceptable appearance in its location. The structure is now clad in feather edged timber boarding.
5. The roof is covered in roofing felt similar in appearance to the roofs of other outbuildings in the vicinity. The requirement of that part of the disputed condition for the roof also to be clad in timber would serve no particular purpose. Indeed, cladding the roof of the structure would make the roof appear incongruous in comparison to other garden buildings. I therefore do not consider that requiring the roof to be clad in timber rather than roofing felt is either necessary in the interests of the appearance of the structure or for the character of the area. Consequently I consider that the condition in the terms in which it is formulated is neither necessary nor reasonable in the light of Circular 11/95 and paragraph 206 of the National Planning Policy Framework.
6. I have therefore replaced Condition 1 with a condition requiring the retention of the timber cladding and roofing felt.
7. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition and substituting another.

P N Jarratt

Inspector