

# **REPORT OF THE DIRECTOR 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.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2014/0232	1.1	Aston	Aston	1
9/2014/0189	1.2	Woodville	Woodville	28
9/2014/0247	1.3	Hatton	Hatton/Hilton	37
9/2014/0280	1.4	Melbourne	Melbourne	40

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 Director 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 Director 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.**        9/2014/0232/MAF

**Applicant:**  
**RICHMOND CARE VILLAGE**  
**HOLDINGS LTD**  
**RICHMOND VILLAGES**  
**SOUTH STREET**  
**LETCOMBE REGIS**  
**OX12 9JY**

**Agent:**  
**BRADBEER PLANNING LTD**  
**LYPIATT GREEN**  
**NETHER LYPIATT**  
**STROUD**  
**GLOUCESTERSHIRE**  
**GL6 7LS**

**Proposal:**        **DEMOLITION OF EXISTING BUILDINGS AND ERECTION**  
                         **OF A CONTINUING CARE RETIREMENT COMMUNITY**  
                         **(CLASS C2) COMPRISING 60 CARE BEDROOMS, 49**  
                         **CARE SUITES AND 76 CARE APARTMENTS**  
                         **TOGETHER WITH 74 DWELLINGHOUSES (CLASS C3)**  
                         **AT ASTON HALL HOSPITAL MAPLE DRIVE ASTON ON**  
                         **TRENT DERBY**

**Ward:**            **ASTON**

**Valid Date:**      **24/03/2014**

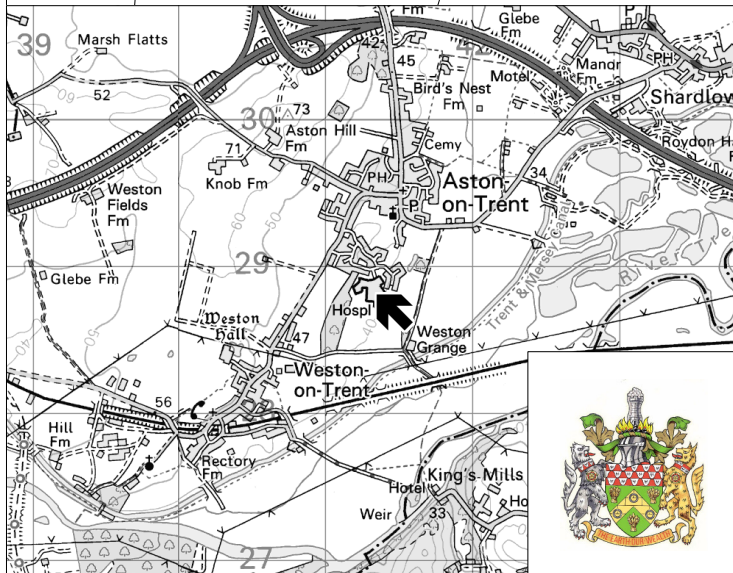
**Reason for Committee determination**

This is a major application not in accordance with the Development Plan and with more than two letters of objection having been received.

**Site Description**

The site is part of the former Aston Hall Hospital the majority of which was re-developed for residential purposes at the end of the last century, but the land and buildings concerned remained in use for hospital purposes until the end of 2004. The Grade II\* listed Aston Hall Mansion is some 200m to the north of the site access, beyond the existing housing development whilst existing buildings on the site curtail views towards the open countryside to the south and east. Views from the south are available from the public footpath linking Weston Road with the River Trent and Mersey Canal at Weston Grange. Long Walk Wood and Middle Wood bound the existing complex to the west and east respectively and these largely screen the buildings from Weston Road and Shardlow Road. Concessions secured by a previous Section 106 Agreement enable public access through the woods and along the southern periphery of the hospital, along with use of the now disused playing fields. Vehicular access to the hospital from Weston Road is gained off Maple Drive via Willow Park Way.

**9/2014/0232 - Aston Hall Hospital, Maple Drive, Aston on Trent, Derby  
DE72 2DF**



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

**South Derbyshire District Council. LA 100019461. 2014**

The lawful use of the site falls within Class C2 of the Town and Country Planning (Use Classes) Order (“the UCO”), being a residential institution. The existing buildings produce a footprint of about 5300 sq m, with an overall current floor space of about 7300 sq m. Some of the buildings are of substantial construction, in brick with plain clay tile roofs, whilst others are more utilitarian in design and materials. Included within the group are a meeting room/theatre and a hydrotherapy pool. As the site has not been used for around a decade, the buildings are now showing signs of vandalism and dereliction.

## **Proposal**

The application seeks to demolish the existing buildings in their entirety. New development would comprise of two “parts” – a new purpose-built care village for use under Class C2 along with housing (Class C3 of the UCO).

### **The Care Village**

The care village would occupy the major part of the built development to the eastern half of the site and would provide three types of care accommodation comprising 60 care bedrooms, 49 care suites and 75 care apartments, and communal facilities (the care village centre) comprising a restaurant, café/bar, auditorium, library, IT suite, wellness spa (including swimming pool, hydrotherapy pool, gymnasium, sauna and steam rooms, studio and treatment rooms along with associated ancillary facilities) and garden grounds.

The care bedrooms would be provided over 2 levels within the care centre attracting a variety of registrations which would likely include frail elderly, nursing care, residential care, dementia care and young disabled persons. The intention for these rooms is to accommodate those residents who need the most intensive type of nursing care.

The care suites would offer a greater degree of privacy and independence and include a living area and limited kitchen facilities for refreshments but not main meals. Some suites would benefit from two bedrooms to reflect the needs and preferences of some couples. Residents would be in need of varying levels of care but be typically more active and able to make fuller use of the community facilities. It is intended that a number would be designated as dementia care suites and specially designed to accommodate couples where one party is suffering from dementia but to allow the couple to continue to live together.

The care apartments typically comprise two bedroom apartments physically separated from the care centre. These units are designed to cater for a more independent lifestyle. However occupants are likely to be couples, one or both of whom has a need for nursing care due to infirmity or disease that the partner can no longer provide.

In summary occupiers of the care village would be:

- a) Registered disabled;
- b) In need of regular care or support;
- c) Be a spouse, cohabitee or dependent living with such persons; or
- d) Be engaged to provide services for any person living on the site falling within the above categories (i.e. key staff).

The care centre will be largely 3-storey reducing to 2-storeys adjacent to housing and parkland. The floor space related to this part of the proposal equates to around 19,600 sq m, an increase of some 12,300 sq metres on that existing. Some 152 parking spaces would be provided to serve the care village made up of dedicated spaces for the more independent living accommodation, visitor spaces for the remainder of the accommodation and staff parking. A number of disability spaces would be provided in addition as well as cycle parking.

### The Housing

The housing would be located in two clusters – one towards the western edge of the site adjacent to Long Walk Wood and the other adjacent to Willow Park Way, north of the proposed Care Village and adjacent to the access. It would comprise a mix of 2, 3 and 4+ bedroomed houses in a range of styles including terraced, semi-detached and detached at 2 to 2.5 storeys high.

Some of the housing element would be put to affordable housing needs. This comprises 22 units overall in a range of 1, 2 and 3 bedroom apartments or houses, equating to 30% of the overall housing provision. The tenure would be split to 16 for rent (73%) and 6 for shared ownership (27%). All the affordable housing would be to the northern end of the site, with 16 of the units to the eastern element and the remaining 6 in the western element.

141 parking spaces would be provided giving generally 2 designated spaces per plot, although this reduces slightly on units 12 to 21 which are 1-bed apartments. Private gardens would accompany all but units 7 and 12 to 21 (which are apartments).

### Open space and access

The main vehicular access would be off Maple Drive, as it presently exists, serving a range of estate roads, private or shared driveways and courtyard parking to the care village and housing elements. The main road would run alongside the open space, laid out as parkland, which bisects the care village and housing towards the western side. This would connect visually with the open land to the south of Aston Hall and the open fields in the direction of Weston on Trent to the south of the site. The road would cross this open space at one point towards the northern end of the development. Footways would run amongst this open space and connect with the existing and proposed highways as well as the hoggin public walks within the woodlands.

Existing trees would be retained as far as practicable or appropriate to do so, and be supplemented with new tree planting. A landscape buffer between the eastern cluster of proposed dwellings and existing dwellings on Willow Park Way would be introduced and retained under separate ownership. Excess spoil from the development would also be used within the open space to create mounds of up to 1.5 metres in height, whilst swales and infiltration ponds would also provide for storm water drainage. A children's play area would be provided at the northern end of the site in an accessible position to existing residences on Maple Drive and Willow Park Way.

### Comparison to the 2007/2010 Approval

The overall scheme reduces the degree of Class C2 provision across the site and introduces an element of conventional Class C3 housing. In summary the number of care bedrooms remains constant at 60 rooms, the number of care suites reduces from 75 to 49, and the number of care apartments reduces from 140 to 76. When considering the care bedrooms cannot provide for any manner of independent living given they comprise just sleeping and WC facilities, the number of C2 units reduces by 90. This is then balanced by the provision of 74 dwellinghouses. There is thus an overall loss in the number of units to be provided, but this is not unexpected given a material change to the economics of development since 2007 and current availability of finance for more specialist projects.

In terms of built form, the increase in Class C2 floor space of some 12,300 sq m, compared to that existing, represents a reduction in the approximate increase of 20,600 sq m permitted under the 2007/2010 permission. This reflects the reduction of C2 units overall. On plan this does little to alter the general pattern and form of development to the eastern side of the site. However it does lead to the built footprint, in the form of dwellinghouses extending further than previously permitted, right down to the southern boundary of the site, reducing the parkland provision slightly compared to the previous approval. The scale of the overall development remains generally consistent, with dwellings being predominantly 2- storey whilst the care village is a mix of 2 and 3 storey development.

### **Applicants' supporting information**

A Planning Statement echoes the above description of the proposal and supplements this further. It states that it is anticipated that the completed development would provide 116 full-time equivalent jobs, varied in both their nature and range, offering full-time and part-time opportunities embracing nursing care, housekeeping, administration, catering, driving, and maintenance staff. Nursing and care staff would work a shift system to ensure that 24 hour care is provided, with the shift patterns avoiding the need for staff to travel during peak hours. The operator also intends on using a minibus service to collect and drop off where possible to reduce private car use, whilst also providing a small fleet of suitably adapted vehicles to assist the transportation needs of both residents and staff. The Planning Statement rehearses Development Plan and emerging Local Policy, the NPPF, and identifies a lack of a 5-year housing supply. It is advanced that the Class C2 development is consistent with the long established lawful use of the site and implemented planning permission, and that the Class C3 housing element accords with the Council's aspirations for development of the site, as evidenced by a specific policy in the emerging Local Plan. It is therefore considered the proposed mix of uses is suitable, achievable and available and above all a sustainable development. The Statement goes further to identify that due to the presumption in favour of sustainable development the adverse impacts arising must significantly and demonstrably outweigh the benefits of the proposal, and the proposal will deliver a wide choice of high quality homes in a way which addresses future demographic trends and includes specialist accommodation for persons in need of care.

The Design and Access Statement sets out the sustainable design and construction measures which have been incorporated, including the optimisation of solar gain and daylight maximisation; provision of opportunity for fitting of solar PV panels to roof slopes and solar tanks within roof voids; design of the buildings' fabric to appropriate sustainable construction detail; design of heating, lighting and ventilation systems to employ the cleanest available energy sources and to incorporate energy efficient controls; and specification of water efficient appliances and controls and inclusion of measures to minimise waste and to encourage recycling.

A Care Needs Assessment outlines that the population of those aged above 65 within the catchment is set to increase by over 25,000 between 2012 and 2022 (up to around 147,700) resulting in the elderly proportion of the overall population increasing from 17% to 19%. This has an effect on anticipated demand for residential care and Extra Care Housing (ECH). The dominant tenure type within the catchment area is owner occupied (70% of people within this age group) and the provision of apartments for purchase that provide care are in short supply. There currently exists only 538 apartments for the elderly that provide care, compared to an identified projected demand of over 5,500 (ECH units to buy). As to care homes there are 153 care and nursing homes in the catchment providing 5,398 care bed spaces. Whilst at present existing supply meets current demand the projected demand by 2022 is 6,279 with the scales tipping around 2017. Further analysis of existing stock shows that under half of total beds provide en-suite facilities indicating that existing stock may be outdated and will not meet expectations of older people looking for care accommodation now and in the future.

A Landscape Appraisal & Design Statement notes the existing site landscape is badly degraded by unsympathetic development both within and adjoining it. However it includes features of scenic and conservation value, in particular the Long Walk Wood and Middle Wood. The proposals would replace existing site structures spread across the centre of the Site with a new build development of generally reduced roof heights and of more sympathetic massing, design and materials that is set back against the woodland backdrops to either side. As the existing structures are largely hidden from the surrounding countryside, public roads and other rights of way it follows that the proposed buildings will themselves be similarly, or even less, visible from outside the site boundaries. Indeed certain views would be improved by the introduction of the landscaped parkland corridor, especially north/south views to and from Aston Hall itself. No features of landscape or conservation value would be lost or harmed by the proposals, and whilst a number of trees would be removed these are of low value. The existing woodland areas would not only be retained but would be improved assisting in the wider landscape, arboricultural, ecological and access enhancements to the site which would benefit the wider countryside and public enjoyment of it.

A Transport Assessment (including Addendum) concludes that the forecast level of traffic generated by the proposed development will not result in detrimental impact on junction capacity or safety where the development traffic accesses the local road network. The Assessment has considered the proposal with reference to relevant national, regional and local transportation policies and has also shown that the site has a good level of connectivity with the strategic road network, is accessible to public transport opportunities and accessible on foot to a substantial range of key health, leisure and essential services.



In addition the Assessment has shown that the site has a good level of cycle connectivity to the local area. An addendum addresses local concerns, confirming that the Willow Park Way/Weston Road junction has capacity to deal with development generated traffic. A construction management plan, to be submitted pursuant to condition, would take account of particular restrictions and constraints on the local highway network. The previous permitted schemes were based on higher assumed peak hour traffic generation. The current assessment, demonstrating less traffic, is based on the national system of trip generation analysis (TRICS).

The Assessment is also complemented by a Travel Plan which aims to encourage staff and residents of the development to use sustainable transport modes, incorporating the establishment of a Travel Plan Co-ordinator; Welcome travel packs; an annual travel survey; a car sharing scheme; a Community Transport Scheme; and public transport discounts.

A Phase 1 Geo-environmental Desk Study provides an up to date human health and environmental contamination risk assessment and concludes that contamination does not pose an unacceptable risk to development of the site. Nonetheless the Study recommends that ground investigation would be prudent and also necessary to confirm and refine the ground model, but as the risks associated are low such investigations could be undertaken as part of the conditional requirements.

An Ecological Assessment found that some of the buildings on the site are in use, or have the potential for use, to support roosting bats. No evidence of habitats for other protected species was found. In view of these findings a Bat Survey was subsequently undertaken and comprises a separate report. Data collection included internal and external visual inspection of buildings together with a bat activity survey, a bat hibernation survey and a roof void temperature study. The Survey identifies the potential for the proposal to mitigate for the loss of bat habitat within current buildings by provision of alternative roosting opportunities in new buildings. Various mitigation and enhancement measures are recommended in the Survey. Beyond this the Ecological Assessment suggests a variety of measures to enhance biodiversity interest on the site including new planting of appropriate species, habitat and landscape management measures and provision of nest boxes.

The Heritage Statement concludes that there are no designated heritage assets on the site or in close proximity such that they would be harmed by the proposed development. There are two non-designated assets on the site but these are not considered to be of sufficient importance to preclude development. Furthermore the site of the former ice house would not be affected. Evaluation identified buried pre-historic features on the site but concluded that any development impact on such features could be mitigated through a conditional requirement to undertake a programme of archaeological evaluation.

The Flood Risk Assessment (FRA) and Drainage Strategy shows that implementation of the proposed development in accordance with an approved drainage scheme can be accommodated with minimal risk of flooding to the development and result in no increase to risks of flooding off-site.

## **Planning History**

Redevelopment of the remainder of the former Aston Hall hospital site, for residential purposes, was allowed in the mid-1990s. The application site first became developed as a hospital in the 1930s and incremental development continued into the 1990s. Notable buildings include an assembly hall and a hydrotherapy pool; the latter built towards the end of the 1990s. Since then there have been a number of permissions granted for redevelopment:

9/2006/0625: Outline application (all matters to be reserved) for the demolition of existing buildings and the construction of an assisted living development (comprising a maximum of 13,000 sq m of Class C2 floor space) and a maximum of 70 assisted living accommodation units – Approved July 2006.

9/2007/1402: Demolition of existing buildings and erection of a continuing care retirement community (Class C2) comprising 60 care bedrooms, 75 care suites and 140 care apartments – Approved April 2008.

9/2010/1022: Application to extend the time limit for implementation of 9/2007/1402 – Approved April 2011.

The 2006 permission would have involved development of the existing playing field at the site and provided for a payment of £30,000 towards replacement recreation facilities. An undertaking was also made to facilitate discussion between the applicant and the community to identify facilities that could be made available to the village population. The 2007 permission (and 2010 extension) was subject to a unilateral undertaking which relates to occupancy, public access and the same financial contribution as outlined above.

The 2007/2010 permission has been secured through partial demolition of one of the existing buildings. This consent therefore represents a material fallback position.

## **Responses to Consultations**

The Environment Agency raises no objection subject to imposition of conditions to secure appropriate sustainable surface water drainage and to protect the water environment from pollution.

Natural England (NE) has no objection in principle and refers the issue of protected species to its standing advice. NE recommends measures to secure biodiversity enhancement in accordance with paragraph 118 of the NPPF, along with landscape enhancements.

Derbyshire Wildlife Trust considers sufficient ecological information has been supplied relevant to the potential impacts, the main issue arising being the loss of bat roosts in the existing buildings. A condition is recommended to safeguard the species. The proposed beneficial actions to enhance biodiversity should be secured by condition.

The Development Control Archaeologist considers that the relevant heritage interests could be protected by condition.

Derbyshire County Council (Developer Contributions) seeks the following contributions:

- Access to broadband.
- 370 m of Greenway within the site, with £11840 maintenance charge.
- £55,600 to connect the Greenway to the Trent and Mersey Canal.
- £65,600 towards upgrading Trent & Mersey Canal towpath.
- £30,000 towards ramp between Bridleway 6 and Trent & Mersey Canal.
- £148,187 for primary school places at Weston CE (Aided) Primary School.
- £171,762 for secondary education
- £74,512 for Post 16 education
- Homes designed to Lifetime Homes standards.

The Environmental Health Manager has no objection in principle.

The Strategic Housing Manager has agreed the extent and composition of the proposed affordable housing.

Severn Trent Water Ltd has no objection in principle.

The Crime Prevention Design Adviser has no objection in principle. Detail comments are made which have either been taken into account in the amended plans or could be secured by condition.

The Highway Authority has no objection in principle.

## **Responses to Publicity**

Aston-on-Trent Parish Council welcomes development of the former hospital site on the basis of a Class C2 development which would alleviate all problems associated with this abandoned site. However the proposal is not wholly in line with these principles, with it noted that the village has a long history of providing a “caring” environment. As such the change of use, together with the size and scale of the proposal means the Parish Council considers the proposals will cause serious, long-term harm to village life. The following objections are raised:

- a) the change of use classification for the site stands against previous policy for the site and it is considered emerging policy has been progressed solely to facilitate this application;
- b) the former hospital has a built footprint of 7,300 sq m and this proposal represents an increase of nearly 300% on what had been anticipated, and the inclusion of the further dwellings creates an increase in village population for nearly one third;
- c) the overall footprint is too large and is not acceptable on this scale, with the claim within the Planning Statement that the size of the Care Village has been reduced to accommodate the dwellinghouses disputed;
- d) village groups and local schools are already over-subscribed and the social and broadband infrastructure of the village cannot sustain a development on this scale;
- e) the closure of the Shardlow surgery will be further compounded by an increased demand on Aston surgery, and the associated on-street parking only made worse;
- f) the roads serving the site are not suitable to sustain the size and scale of traffic anticipated, with residents already using the roads for regular parking reducing the width of the road;

- g) the roads will not facilitate regular and sustained use of heavy vehicles and buses (both during and after construction) without negatively impacting on road safety;
- h) the junction of Willow Park Way onto Weston Road will have to accommodate all the traffic associated with the development and they believe that the traffic survey failed to account for the additional dwellings;
- i) the impact on the junction at the centre of the village ("Aston Cross") has not been surveyed, with it already acting as an informal meeting point where the post office is sited, and at present buses and heavy vehicles already find negotiating this junction difficult with regular obstructions also causing delays;
- j) they believe the transport assessment was done prior to the current layout and proposal being formulated such that it does not account for the impacts of the current plans; and
- k) the statement that the change of use will unlock funding for the care village sooner leads to a prioritisation of this factor over all other considerations, to the detriment of the village.

Weston Trent Parish Council broadly welcomes a Class C2 development but not the change of use to allow for housing. The following objections are raised:

- a) the additional dwellings alongside the care home facility is of too great a density leading to traffic congestion on local roads;
- b) the dwellings would place additional pressure on both Weston and Aston primary schools which are already stretched alongside secondary school provision;
- c) the construction period is not fully appreciated with the local roads unsuitable for heavy machinery, and whether a management scheme has been put forward by the developer;
- d) concerns are raised over the phasing of the development with concerns that should the dwellings be built first that this would lead to a revised application for more housing and a reduced care facility;
- e) the safety of children during the construction phase and whether the play facility will be provided first;
- f) whether local residents will still be able to access the permissive routes within the woods during construction;
- g) no thought seems to have been given for emergency vehicles with an ambulance simply not able to get down Willow Park Way or Maple Drive at certain times of the day; and
- h) the impact on existing broadband provision and whether this would in turn lead to a wider benefit from being "fast tracked" to a faster broadband service.

County Councillor Rob Davison's comments are summarised as follows:

- a) The site is in Weston on Trent parish but abuts Aston on Trent. Both parishes are strongly connected with the site.
- b) The long standing welcoming and caring connection between Aston residents and long stay patients at the hospital means that residents view the vacant site as public realm.
- c) The development would be 2.5 times greater in size than the existing site. Aston and Weston public have legitimate expectation that SDDC will honour the general and long held understanding that re-development would be C2 Use Class and of similar scale to the existing.

- d) There would be adverse impact on highways from construction traffic and thereafter from the new population. Aston's concerns are supported.
- e) The village is accessible by 3 adopted roads.
- f) It is noteworthy that the Acre Lane quarry uses its own access to the A50, obviating the need to use the Aston – Shardlow road.
- g) Derby Road to London Road involves narrow twisting highway with poor visibility.
- h) Two of the routes would cause development traffic to use the main pinch point at the Weston Road/Green junction. No survey has been carried out to assess this impact. Difficulties with using this junction are appreciated by residents and bus drivers.
- i) The only other route would involve winding approaches and tight junction to the A514, with traffic passing through Weston on Trent.
- j) There is no need for the dwellings to support the viability of the care village.

Save Aston Village Environment (SAVE) raises the following objections:

- a) the access route to the site is limited to one route (Willow Park Way) and is narrow;
- b) the development will vastly increase traffic numbers through the centre of the village both during construction and once completed, with peak hour traffic already a problem;
- c) there is no provision for medical services on site and the existing surgery is already overloaded;
- d) the C3 element is unacceptable;
- e) the proposal would increase the population reliant on the village by around 300 people, in a Parish which is not directly affected;
- f) the floorspace has increased from just over 7,000 sq m to almost 20,000 sq m;
- g) there is no mention of existing residents being able to use the new facilities provided; and
- h) there are few facilities in the village with only 2 shops, 2 pubs, the bowling green, playing fields and the Church, and no bus services after 6pm or on Sundays.

81 objections have been received citing the following concerns:

#### Principle of development

- a) the proposal is not planned for by way of policy;
- b) this is not a "reduced application";
- c) the site is not majority brownfield as claimed with most as grassland;
- d) the care needs assessment identifies an overriding need for elderly persons accommodation yet this proposal reduces that already approved in favour of dwellings;
- e) BUPA holds sufficient funds/profit to sustain the development already permitted;

#### Sustainability and impact on local services and facilities

- f) the wider site has already had a development of over 100 houses just over 10 years ago;
- g) the size of the village would be increased by a considerable percentage, changing the community ambience;
- h) the quantum of development is incompatible with the existing village;

- i) the village infrastructure is not robust enough to support this many private homes;
- j) limited bus services serving the village;
- k) there are no shops or post office in Weston leading to pressure on Aston;
- l) the local schools, both primary and secondary, are already oversubscribed;
- m) the education needs arising from a care village only is different to the mixed development now proposed;
- n) commuted sums will be paid to Weston Parish Council despite the impact being felt by Aston-on-Trent;
- o) whether commuted sums are calculated are commensurate with the development proposed;
- p) what financial incentives are being offered by the developer and to whom;
- q) increased pressure on medical services;
- r) increased pressure on recreational/leisure facilities;
- s) the 40% affordable housing target is not achieved;
- t) capacity of existing broadband, electricity, gas and water supplies to cope with additional development;

#### Highway safety and capacity

- u) the local road network is already at capacity and/or are restrictive to additional traffic due to flooding, low bridges or difficult turns;
- v) the width of Willow Park Way is not suitable, nor its capacity to take additional traffic;
- w) the development will create an increase in vehicle numbers in the area, not to mention delivery vehicles and so forth;
- x) the number of vehicle users arising from a care village only is different to the mixed development now proposed;
- y) the Traffic Assessment does not mention the junction in the centre of the village, with further vehicles exacerbating an already busy and dangerous junction;
- z) the Traffic Assessment cannot get basic information correct and resulting confidence in the findings therein;
- aa) the Application Form makes no reference to parking numbers for the new houses;
- bb) the stated times of the peak traffic flows on Willow Park Way are disagreed, and the survey needs to be repeated on various days of the week in order to get a true picture;
- cc) a further highway access should be created but where this will go;
- dd) Yates Avenue should be re-opened to traffic;
- ee) safety impacts for children from construction vehicles and increased traffic along the local roads;
- ff) the safe passage of emergency vehicles would be compromised;
- gg) the creation of a bus route into the site would not be a good idea;
- hh) speed limits on local roads, particularly Weston Road and Willow Park Way are exceeded;
- ii) the TA refers to Ashton on Trent which raises questions about the whole document.

#### Biodiversity and protected species

- jj) the development will upset a family of owls which have been observed in the trees surrounding the site;

- kk) the more than doubling of the built footprint results in loss of green space and habitat for wildlife;
- ll) the impact on historic woodland and whether trees will be cut down;

#### Amenity

- mm) increased vehicle pollution;
- nn) increased noise pollution from both additional vehicles arising from the use and construction vehicles;
- oo) increase in dust and road debris during the course of construction;
- pp) plot 5 will be approximately 8.5 metres from an existing dwelling with rear windows facing over that property;
- qq) lighting spill and disturbance from proposed staff car park;

#### Visual, landscape and character impacts

- rr) loss of view of open countryside with new properties backing onto theirs;
- ss) such a large development spoils the character of the village;
- tt) built footprint 3 times larger than previously proposed;

#### Design and layout

- uu) opposed to the play area close to their property given concerns over its use for anti-social behaviour;
- vv) affordable housing is not in keeping with the surrounding area;
- ww) the affordable housing should be integrated within the development and not at one end of the site;
- xx) the increase in footprint from 7,300 sq m to 19,600 sq m is excessive;
- yy) the housing style, type and arrangement should reflect those dwellings on Willow Park Way;
- zz) the requirement for timber windows seems onerous given existing surrounding properties have upgraded to uPVC;
- aaa) the existing permissive footpaths are unsuitable for wheelchairs and would benefit from improvement;

#### Flooding, drainage and other technical matters

- bbb) the building of so many properties will lead to increase flooding;
- ccc) the increase in sewerage will have an impact on pumping station capacity;

#### Other matters

- ddd) demolition of buildings has already begun prior to this application being determined;
- eee) the people of Aston and Weston have been misled, and the Local Plan drop-in event held in March should have been delayed;
- fff) the number of attachments to look through in order to find the desired information;
- ggg) the Design and Access Statement incorrectly states there is a public footpath through the grounds of the Hall, and this should be amended accordingly; and
- hhh) it is understood the applicant no longer has an interest in the land.

A single representation in support has been received, considering the proposed buildings to enhance the site and village location as well as improving the sustainability of the village.

## **Development Plan Policies**

The relevant policies are:

Saved Local Plan 1998: Housing Policies 5, 8 and 11; Transport Policies 6, 7 and 8; Environment Policies 1, 9, 11, and 14 (EV1, EV9, EV11 and EV14); and Community Facilities Policy 1 (CF1)

## **Emerging Development Plan Policies**

The relevant policies are:

Pre-Submission Local Plan 2014: Policies S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H8 (Former Aston Hall Hospital), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF9 (Open Space, Sport and Recreation)

## **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)  
Paras 11-14 (The presumption in favour of sustainable development)  
Para 17 (Core principles)  
Chapter 4 (Promoting sustainable transport)  
Chapter 6 (Delivering a wide choice of high quality homes)  
Chapter 7 (Requiring good design)  
Chapter 8 (Promoting healthy communities)  
Chapter 10 (Meeting the challenge of climate change, flooding etc.)  
Chapter 11 (Conserving and enhancing the natural environment)  
Chapter 12 (Heritage)  
Paras 186 & 187 (Decision-taking)  
Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations)  
Annex 1 (Implementation)

National Planning Practice Guidance (NPPG) ID6 (Climate Change) ID4 (Environmental Impact Assessment) ID7 (Flood Risk), ID8 (Natural Environment), ID26 (Design), 21a (Conditions), 23b (Obligations), ID33 (Contaminated Land), ID37 (Open Space), ID42 (Travel Plans & Transport Assessments) ID36 (Trees), ID53 (Health and Wellbeing)



## Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)
- Developer Contributions Guidance
- Provision of outdoor playing space
- Trees and Development

## Environmental Impact Assessment

A Screening Opinion has been issued under Part 1, Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 to the effect that the proposal is not EIA development.

## Planning Considerations

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

- The principle of development, having regard to the extant permission 9/2010/1022
- Sustainability
- Impact on the character and appearance of the area
- Highway safety
- Residential amenity
- Archaeology
- Protected species
- Contaminated land
- Drainage
- Design and crime prevention
- Planning obligations

## Planning Assessment

The principle of development, having regard to the extant permission 9/2010/1022.

The provision of a care village (use Class C2) on the site has previously been considered acceptable in the context of existing lawful use and prevailing planning policy, most recently on grant of planning permission 9/2010/1022. Although the National Planning Policy Framework and Guidance has been introduced since the previous decision it does not introduce any significant new policy considerations so far as the care village is concerned. Indeed, by providing residential accommodation for older and disabled people, it is supported by Paragraph 50 of the NPPF as well as the presumption in favour of sustainable development in Paragraph 14. Therefore, as a matter of principle, re-development of the same kind as proposed, albeit now on a smaller scale, is acceptable.

With regard to the proposed housing element Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”*

Paragraph 14 of the National Planning Policy Framework (NPPF) states *“at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.”* The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- specific policies in this NPPF indicate development should be restricted.

Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework.

In terms of the current Adopted Local Plan, Saved Housing Policy 5 defines a village confine within which none of the site lies. As such residential development is not supported by the development plan. The emerging Local Plan Policy H1 identifies Aston on Trent as a ‘Key Service Village’ within which small scale development is favoured in principle. It also identifies the application site, through Policy H8, as capable of accommodating around 100 dwellings as a strategic housing allocation. Nevertheless it should be stressed that the emerging plan does not yet have substantial weight, due to its current early stage of progress through the plan making system.

In terms of housing supply, paragraph 47 of the NPPF requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. In addition there is a burden on the local authority to identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of at least 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council cannot currently demonstrate a five year supply of housing.

In the terms of paragraph 14 of the NPPF the presumption in favour of sustainable development must apply unless there are adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. It has been made clear through appeal decisions made since the inception of the NPPF that any negative considerations would need to be substantial in order to justify refusal of an application for sustainable development that makes a meaningful contribution to strategic housing need. The mere presence of less than optimal planning circumstances for any given development is not likely to outweigh the presumption. Therefore unless adverse impacts significantly and demonstrably outweigh the acknowledged benefits of increasing housing supply then it follows that the proposal for residential development would be acceptable in principle.

### Sustainability

By using previously developed land the proposal satisfies one of the main tests of sustainability, identified as a core principle in Paragraph 17 of the NPPF. The provision of a development with clear job generating characteristics at the edge of a village with good local facilities is another highly favourable indicator in this regard. The proposed care village would provide modern specialist residential care. There is no evidence that the proposal would generate unacceptable levels of traffic and the applicant has agreed to implement a Travel Plan to reduce the need to travel by private car. On balance the care village development would be in harmony with sustainable development objectives.

In terms of the proposed housing the application generally shares the aforementioned sustainability credentials. The village has a good range of services and facilities. It is therefore not the case that the occupiers of the new dwellings would be wholly reliant on the private car. Paragraph 29 of the NPPF recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. In the context of a vibrant village, acknowledged as a key service settlement and potential strategic site in the emerging local plan, the proposal represents sustainable development that is acceptable in principle. Subject to the proposal not offending the environmental role in assessing sustainability, it also therefore benefits from the presumption in Paragraph 14 of the NPPF. Other issues having a bearing on sustainability are assessed below.

#### Impact on the character and appearance of the area

The site is presently developed but has assumed a semi-derelict appearance. The proposal would involve a greater coverage of the site with buildings. Nevertheless the overall height of the new development would not be materially higher than the existing buildings on the site. The care apartments and dwellings would be of smaller scale, grouped around a central parkland, flanked and screened by long Walk Wood and Middle Wood. Therefore the development would sit comfortably in its landscape context and would satisfy a core principle in Paragraph 17 of the NPPF to recognise the intrinsic character and beauty of the countryside.

Although the central parkland would re-create a sequence of open space linking Aston Hall with the open countryside, the separation of the site from the Hall and conservation area by the existing Willow Park Way development means that the setting of those heritage assets would remain unaffected by the proposal.

#### Highway Safety & Transport

The application is supported by a Transport Assessment in accordance with paragraph 32 of the NPPF, based on a nationally recognised objective model for trip generation. It has been subject to scrutiny by the Highway Authority and there is no evidence that the development would bring about unacceptable highway safety issues, or that the local roads are not capable of dealing safely with traffic generated by the development. As such the proposal is in accord with Saved Transport Policy 6 of the adopted Local Plan. The layout makes provision for access by all people in accordance with Saved Transport policy 7.

There would be adequate provision for cyclists, both in terms of circulation and also storage facilities, in accord with Saved Transport Policy 8 and paragraph 35 of the NPPF.

Whilst recognising that this is not a built up urban area (NPPF paragraph 29) the application is accompanied by a Travel Plan to maximise sustainable transport opportunities, which could be enforced by condition in order to satisfy paragraphs 34-36 of the NPPF.

### Residential Amenity

Given that the highways would operate within capacity there is no evidence that their use as such would be detrimental to the amenities of local residents once development is complete. There would be disturbance during the construction, which is an inevitable consequence of any significant building operation. Appropriate conditions could be applied to ensure that such disturbance is contained within reasonable limits.

The main 3-storey care village block would be some 40 metres away from the nearest existing dwelling. Supplementary Planning Guidance would suggest a minimum acceptable distance of about 26 metres. Elsewhere the new development conforms to the guidance such that 2-storey buildings would be sufficiently far from, or juxtaposed so as to maintain reasonable privacy and amenity for neighbours, in accordance with Local Plan Saved Housing Policy 11.

Potential light pollution could be controlled by appropriate condition, in accordance with paragraph 125 of the NPPF.

### Archaeology

An archaeological evaluation has been undertaken. The Development Control Archaeologist considers that items of interests can be preserved by record. An appropriate condition would bring this about. As such the requirements of Local Plan Saved Environment Policy 14 and paragraph 141 of the NPPF would be satisfied.

### Protected Species

The conservation status of protected species on or in the vicinity of the site would not be prejudiced by the development. A known bat roost would be lost upon demolition of existing buildings but mitigation measures, secured by condition, would compensate for this. The work would need to be undertaken under licence from Natural England.

Long Walk Wood is a non-statutory wildlife site and the Section 106 management obligations (see 'Planning Obligations' section below) would enable Derbyshire Wildlife Trust to comment on the specific proposals for the woods. Other wildlife interests would be secured through the imposition of conditions recommended by the Trust. Appropriate conditions would also secure net biodiversity gains. As such the proposal would be compliant with Saved Environment Policy 11 and NPPF paragraphs 109 and 117.

### Contaminated Land

The previous use of the site as a hospital may have resulted in contaminants being present on the site. The situation could be safeguarded by condition, as required by paragraph 121 of the NPPF.

## Drainage

On the advice of Severn Trent Water Limited and the Environment Agency there would be no adverse impact on the local drainage system or flood risk interests, subject to conditions securing sustainable urban drainage in accordance with ID7, paragraph 051, of the NPPG.

## Design and Crime Prevention

The proposal demonstrates a carefully considered design approach. The new buildings would reflect local distinctiveness in terms of the scale and character of the buildings, the proposed materials and landscaping. The introduction of a central parkland would re-create an accessible sequence of open space linking Aston Hall with the open countryside. The overall height of the main new care building would not be materially greater than the existing buildings on the site. The care apartments and dwellings set in the grounds would be lower, assuming a subordinate role in the site's architectural hierarchy. The overall scale and character in terms of design and layout is broadly similar to the extant consented scheme, albeit that the housing development alongside Long Walk Wood would extend to the southern boundary of the site. The detail design is respectful of South Derbyshire's local distinctiveness and the core care complex reflects the character of the former hospital, with large built form set in landscaped grounds.

The layout contains a mixture of footpath and road links, with precedence for the former. The routes to the residential areas are clearly defined and the access points serving the care village reflect its specific functional nature. Therefore the development would sit comfortably in its landscape context and create a high quality environment.

The layout takes account of the need for security, and additional measures would be incorporated to minimise the risk of crime.

Overall, testing the proposal against the Building for Life criteria the development achieves a score of 15/16 out of 20, which is considered to be good design, in accordance with Chapter 7 of the NPPF.

Appropriate conditions would secure landscape enhancement in accordance with Local Plan Saved Environment Policy 9.

## Planning Obligations

The following developer contributions have been agreed with the applicant:

- Occupation of C2 Care Village – restricted to qualifying occupiers (as before)
- Community Strategy – scheme permitting public access (subject to qualifying criteria) to social and community facilities within the Care Village Centre to include:
  - Restaurant
  - Bar
  - Spa
  - Hairdressing

- Recreation/open space -
  - Public access to permissive paths (as before)
  - Woodland restoration and management scheme (as before)
  - £30,000 towards local outdoor recreation facilities (as before)
- Education -
  - Secondary education £171,762; £85,881 payable prior to occupation of any C3 unit on Phase 1, £85,881 payable prior to occupation of any C3 unit on Phase 2.
  - Primary education £148,187; £74,074 payable prior to occupation of any C3 unit on Phase 1, £74,074 payable prior to occupation of any C3 unit on Phase 2.
  - Post 16 education £74,512; £37,256 payable prior to occupation of any C3 unit on Phase 1, £37,256 payable prior to occupation of any C3 unit on Phase 2.
- Healthcare – access to be provided to on site facilities. In lieu of a contribution towards healthcare provision, the applicant has offered to commit to make available to residents of the C3 housing on the site access to the domiciliary care services to be provided within the care village. However, the provision of such services would be chargeable. Qualifying occupants of the C3 housing would also be able to access the proposed wellness centre within the care village.
- Affordable Housing
  - Phase 1
    - 10 no 1 bed apartments for rent
    - 2 no 2 bed house for rent
    - 2 no 2 bed houses for shared ownership
    - 16 no car park spaces
  - Phase 2
    - 2 no 2 bed houses for rent
    - 2 no 3 bed houses for rent
    - 2 no 3 bed houses for shared ownership
    - 6 no car park spaces

Units to be completed prior to occupation of any dwellings in the phases to which they relate.

The NPPF provides advice in paragraphs 203 and 204 with regard to planning obligations stating that: *‘Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Planning obligations should only be sought where they meet all the following tests:*

- *Necessary to make the development acceptable in planning terms;*
- *Directly related to the development; and*
- *Fairly and reasonably related in scale and kind to the development.’*

The provision, requested by Derbyshire County Council, of greenways on and off site, canal towpath improvement (including ramp access), Lifetime Homes standards

dwellings and broadband across the whole site is not considered reasonable in the absence of up to date development plan policy on the subject.

### Conclusion

The application is located adjacent to a village with a good range of services and facilities. The care village element of the proposal is consistent with previous grants of permissions and there is a fall-back position, as development has begun pursuant to 9/2010/1022.

Given the scale of the residential development it is likely that it could contribute to the early delivery of homes, helping the Council meet its requirement of a five year supply of deliverable housing.

Subject to conditions there are no constraints in respect of transport. Environmental considerations would similarly be safeguarded by conditions.

By reference to the NPPF's (Para 7) three sustainability dimensions (economic, social and environmental) the scheme could be considered as follows:

- The provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active and aging population, as well as helping to support the vitality and viability of the village. Construction jobs would be created. The development would also provide financial contributions for infrastructure.
- The care village would meet a need identified through the applicant's assessment. The proposed housing scheme would have a significant positive impact on local communities by providing new homes (market and 30% affordable). In terms of healthy communities there would be adequate green infrastructure and open space. Pedestrian/cycle links would help to support active lifestyles and encourage alternatives to the car for accessing local facilities and employment opportunities. Developer contributions would also be made towards education and access for local people would be made available to on-site community and healthcare facilities.
- The application's supporting documents explain how a range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, archaeology, energy efficient design and water). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features. The scheme also helps to mitigate future climate change through reducing CO2 emissions by building new homes in a reasonably accessible location, reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, namely through provision of a sustainable drainage strategy and enhanced network of green infrastructure, along with energy saving design components. Importantly the site is also previously used land.

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 and subject to the applicant entering into a Section 106 Agreement with the Council to secure the contributions referred to in the Planning Assessment above:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No development shall commence until a scheme for phasing of the development has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.  
Reason: To ensure that the development proceeds in an orderly manner.
3. No development of any phase 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 buildings for the relevant phase have been submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the buildings and the locality generally.
4. Large scale drawings to a minimum Scale of 1:10 of balconies, eaves and verges and 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 being incorporated in any building. The balconies, eaves and verges and external joinery shall be constructed in accordance with the approved drawings.  
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
5. 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.  
Reason: In the interests of the appearance of the building and the character of the area.
6. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority before being incorporated in any building. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.  
Reason: In the interests of the appearance of the building and the character of the area.
7. 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 being incorporated in any building.

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

8. Gutters and downpipes shall have a black finish.

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

9. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development of any phase shall take place until there has been submitted to and approved in writing by the Local Planning Authority for the relevant phase 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 of the relevant phase is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

10. Pointing of the buildings, wherever applicable, shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.

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

11. A sample panel of pointed brickwork/stonework 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the appearance of the buildings and the locality generally.

12. No development of any phase shall take place until details, and if necessary samples, of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards for the relevant phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the buildings and the locality generally.

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

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

14. 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 each relevant phase 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.

15. A landscape management plan for each relevant phase, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority before the development of any phase. The landscape management plan shall be implemented for the relevant phase as approved.

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

16. Before the first occupation of each phase of the development details of a scheme for all external lighting for the relevant phase shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved scheme.

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

17. A) No development of any phase shall be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters for the relevant phase 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 each relevant phase of the development (or parts thereof) an independent verification report must 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 should 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) If required by the conceptual site model, no development of any phase shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed for the relevant phase 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.

18. 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.

19. No development of any phase shall take place until details of a scheme for the disposal of surface and foul water for the relevant phase 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.

20. The details required pursuant to Condition 19 above shall include a scheme for surface water drainage for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, which shall be submitted to and approved in writing by the local planning authority in consultation with the Environment Agency. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall demonstrate:

That priority has been given to infiltration to ground through the submission of infiltration test results undertaken in accordance with BRE 365 Guidance;

That surface water run-off leaving the site is restricted to existing rates and volumes;

The ability to accommodate surface water run-off on site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of suitable drainage calculations;

Appropriate levels of surface water treatment; and

The responsibility for future management of the drainage features.

Reason: In the interests of flood protection.

21. No development of any phase shall take place until a schedule of measures for energy reduction and sustainability, in general conformity with Page 28 of the submitted Design and Access Statement, for the relevant phase has been submitted to and approved in writing by the local planning authority. The approved measures shall thereafter be incorporated in the development.

Reason: In the interests of sustainability.

22. A) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording;
  2. The programme for post investigation assessment;
  3. Provision to be made for analysis of the site investigation and recording;

4. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
5. Provision to be made for archive deposition of the analysis and records of the site investigation; and
6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

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

C) No phase of development shall be occupied until the archaeological site investigation and post investigation analysis and reporting for the relevant phase has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part A and the provision to be made for publication and dissemination of results and archive deposition has been secured.

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

23. Before development of the Care Village (Use Class C2) begins a scheme for monitoring and review of the submitted Travel Plan shall be submitted to and approved in writing by the local Planning Authority. The Travel Plan shall be implemented on first occupation of the development and shall be applied thereafter; and copies of the monitoring exercises shall be supplied to the Local Planning Authority every 12 months thereafter, unless as may be otherwise be agreed in writing with the Local Planning Authority.

Reason: In the interests of sustainability.

24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings annotated plots 44, 50-54, 62, 63, 68, 69 & 74 hereby permitted shall not be enlarged or extended, and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected within the curtilages of those dwellinghouses without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: The dwellings are situated adjacent to Long Walk Wood, which is protected by Tree Preservation Order No 45. In the interests of ensuring that the trees are not damaged, the local planning authority considers it expedient to control these types of development.

25. Prior to the commencement of development a landscape and biodiversity enhancement strategy shall be submitted to and approved in writing by the Local Planning Authority. The approved details and measures shall be implemented in accordance with the strategy.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

26. Before development begins details of scheme to prevent access to Long Walk Wood and Middle Wood by construction traffic and the use of the woods for the storage of materials and/or equipment shall be submitted to and approved in

writing by the Local Planning Authority. The approved scheme shall be implemented and retained for the duration of building operations.

Reason: To protect the ecological and amenity value of the woodland.

27. Before to the commencement of any works which may affect bats and/or their habitat, a detailed mitigation/compensation and monitoring strategy shall be submitted to and approved in writing by the local planning authority. Development shall proceed in accordance with the approved strategy, or any alternative strategy that may be subsequently agreed with the local planning authority.

Reason: To ensure adequate protection of the species.

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

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

29. No development of any phase shall take place until details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, for the relevant phase, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed levels.

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

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

Reason: To protect the amenities of nearby residents.

31. During the period of construction, no construction work shall take place outside the following times: 0730 - 1900 hours Monday to Friday and 0730 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residents.

32. Any other conditions reasonably requested by the Highway Authority.

Reason: In the interests of highway safety.

33. This permission shall relate to the details and drawings submitted with the application, as amended by drawing nos. 1316 L2,L3,L4,L5,L6, L7 and 8456 PL1031A, 1033A,1034A,1035A,1036A, 1037A, 1039A, 1040A, 1041A received under cover of the agent's letter dated 23 May 2014.

Reason: For the avoidance of doubt.

## Informatives:

It is an offence to kill or damage or disturb bats or their roosts. If bats are found you are advised to inform Natural England. A licence will be required to affect their habitat from [EPS.mitigation@naturalengland.org.uk](mailto:EPS.mitigation@naturalengland.org.uk)

That the trees and hedgerows 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 July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

To note the advice of the Pollution Control Officer, attached to planning permission 9/2007/1402, which are designed to minimise disturbance to residents during the construction phase.

Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

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. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and seeking to resolve planning objections and issues. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

**Item** 1.2

**Reg. No.** 9/2014/0189/FO

**Applicant:**  
MRS ELIZA HARRISON  
ELLERBANK GAWTHROP  
SEDBERG  
CUMBRIA  
LA10 5TA

**Agent:**  
MR GREG GARLAND  
GREG GARLAND  
6 CHAPEL COURT  
CHAPEL STREET  
KING'S LYN  
NORFOLK  
PE30 1EG

**Proposal:** OUTLINE APPLICATION (ALL MATTERS TO BE  
RESERVED) FOR THE RESIDENTIAL DEVELOPMENT  
OF ALLOTMENT GARDENS OFF ASHBY ROAD  
WOODVILLE SWADLINCOTE

**Ward:** WOODVILLE

**Valid Date:** 27/03/2014

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

This application is reported to Committee being an application not in accordance with the Development Plan but with a positive recommendation.

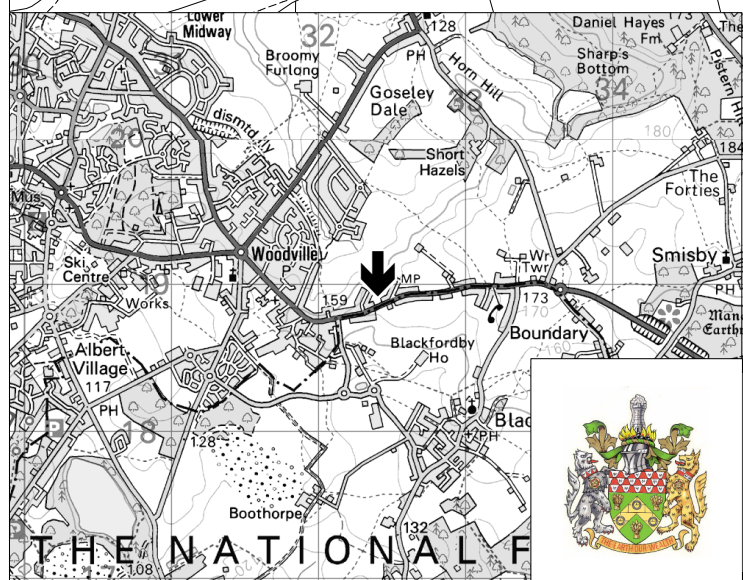
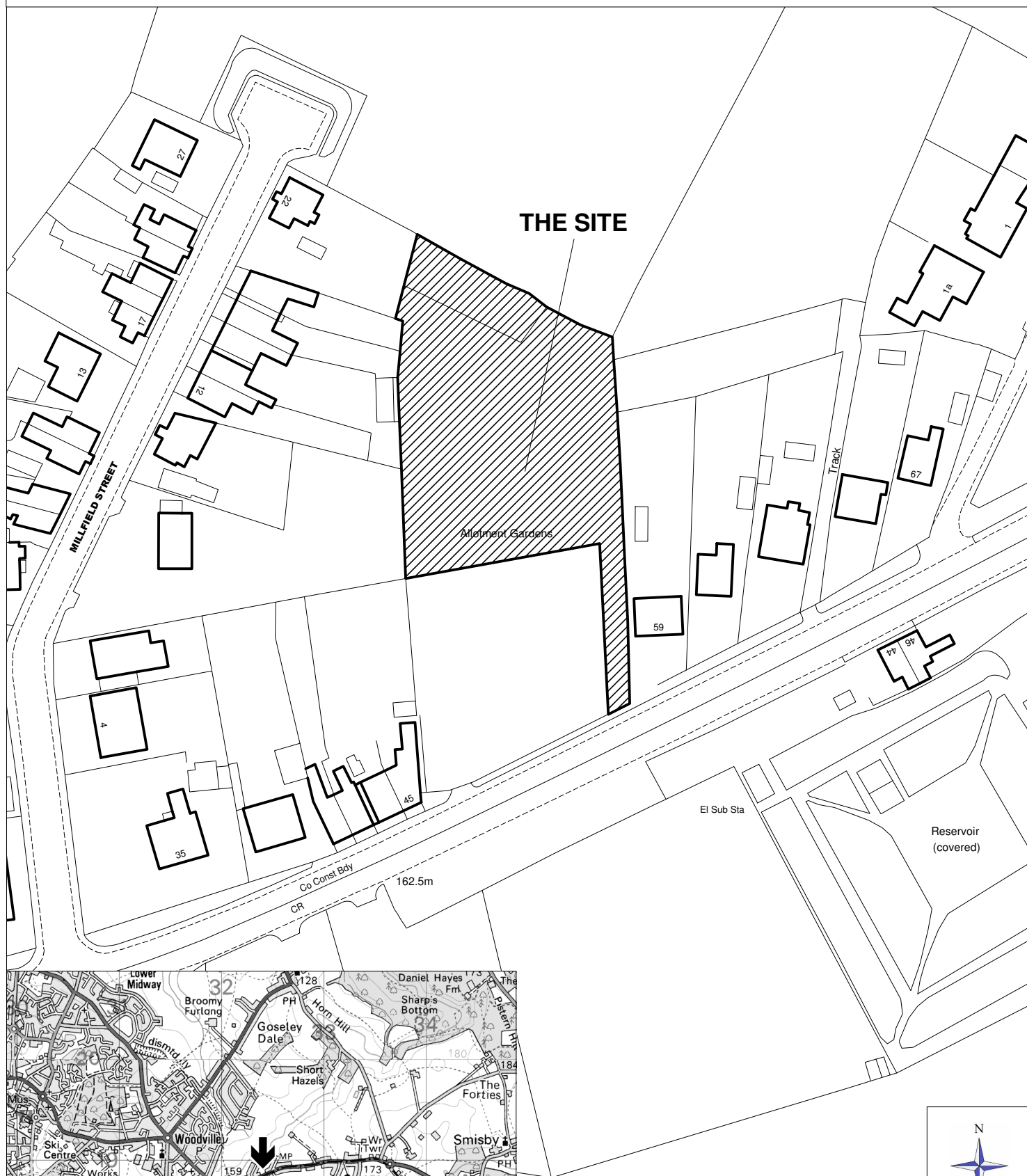
#### **Site Description**

The site comprises a parcel of land, some 2.3 hectares in area, last used as allotments. It is presently bounded by further land last used as allotments to the south beyond which is Ashby Road, the rear gardens of properties on Millfield Street to the west, the rear garden of 59 Ashby Road to the east, and recently created allotments on open land to the north. The site is now vacant and overgrown with the allotments to the north now in use, with the land here largely level before falling away steeply beyond the northern boundary. Remnants of a couple of greenhouses remain, whilst a mix of fence styles and hedgerows form the western, northern and eastern boundaries. A number of mature trees sit along or just beyond these boundaries.

#### **Proposal**

It is proposed to provide residential development on the land, with the application documents and illustrative layout plan suggesting three 4+ bedroomed detached dwellings of 2-storey design and detached double garages backing onto properties along Millfield Street. A private driveway is illustrated to pass between number 59 and two "infill" dwellings fronting Ashby Road (not yet constructed) before meeting the main

**9/2014/0189 - Allotment Gardens off Ashby Road, Woodville, Swadlincote  
(DE11 7BZ)**



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

**South Derbyshire District Council. LA 100019461. 2014**



road. In compensation for the loss of allotments, it is proposed to transfer the freehold of land to the north of the site to the Parish Council for community use.

As the proposal is in outline with all matters reserved, the plan is only an indication of how the development might work within the confines of the site and no detail is “fixed” at this stage, although it is difficult to imagine how an alternative form of access might be provided. Details of layout, scale, appearance and landscaping fall to be considered in principle only.

### **Applicants’ supporting information**

A Design and Access Statement notes that the site is part of the former allotments fronting Ashby Road and highlights that land to the north has already been put to allotment use in recent years. Particular points are asserted:

- Land including the site, has been let to Woodville Parish Council by way of an informal annual tenancy for some seventy years and it has been agreed in principle by the parties concerned, that subject to planning permission being granted, the freehold ownership of the remainder of the land will be transferred to the Parish Council for community use – secured by way of Section 106 agreement;
- The site is now vacant with previous users of the allotments preferring to make use of the land to the north to create new allotments there. This land to the north is also able to meet all foreseeable demand for any additional allotments;
- The indicative layout shows three detached dwellings of a form which is of single storey to the southern side becoming two storey as the roofline heightens which helps to alleviate overshadowing or overlooking of existing properties and helpful to the utilisation of solar energy generation and passive solar gains;
- A planning appeal decision from 2003 establishes that the land is not within the open countryside, that it is substantially surrounded by development, that the Council then stated that it had no environmental objection to the then proposed housing – there being no harm to visual amenity or injury to the countryside, and that at that time the Parish Council and allotment holders were in opposition to the proposed development;
- No open views are available across the site from the A511, the site makes no contribution to countryside or the setting of the village of Woodville, and it is capable of development without creating any adverse landscape impact;
- Land to the south (fronting Ashby Road), previously part of the “old” allotment land, has full planning permission for the construction of two dwellings, and access provision is suitable to serve additional dwellings;
- The site is in a sustainable location in respect of local services and amenities.

A Protected Species Appraisal finds no evidence of the presence of bats or features suitable to support roosting bats. There were considered to be some suitable habitat within the site for reptile species, but the surrounding habitats are less suitable with little connectivity to other nearby sites with suitable habitat. With no records for protected reptile species within 1km of the site, the potential for reptiles to be present within the site is considered to be negligible. No evidence of the presence of badgers was found during the survey, and this was similarly the case for nesting birds in trees and hedgerows within the site. However the trees and hedgerows are acknowledged to provide potentially suitable habitat for nesting birds, and such species could start using

these features at any time during the nesting season. Due to this it recommends that work on trees and hedgerows should be timed to avoid the nesting season.

A Coal Mining Risk Assessment states that whilst there are no recorded coal mine shafts located within 20 metres of the site, there are recorded coal workings below the site with borehole records suggesting that there are 3 coal seams in the area.

The potential risks associated with unrecorded workings at the site means that further intrusive investigations are warranted to prove the depth of competent rock *cover* and the status of the coal seams beneath the site. If remedial measures are necessary these can be designed based on the findings of the investigation.

## **Planning History**

9/2013/0885: Approval of reserved matters following outline permission 9/2010/0792 for the erection of two dwellings – Approved January 2014

9/2010/0792: Outline application (all matters to be reserved) for two dwellings – Approved October 2010

9/2002/1266: Outline application (all matters to be reserved except for means of access) for residential development – Refused January 2003 and dismissed at Appeal February 2004.

## **Responses to Consultations**

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. They recommend the imposition of a condition requiring these site investigation works prior to commencement of development and in the event that remedial works are necessary, that those works are also secured.

The County Highway Authority notes it was consulted informally prior to the application and whilst not holding an objection in principle, a number of issues needed to be addressed. It highlights the plan has not been revised to address these comments, but as the application is in outline with all matters reserved the issues can be conditioned accordingly. Therefore there is no objection subject to conditions being included to secure appropriate access width, a shared turning area within the site, minimum internal dimensions of garages and external parking spaces, and the setting back of gates from the highway boundary.

The Environmental Protection officer has reviewed the application with regard to contaminated land and has no objections or comments to make.

Severn Trent Water raises no objection subject to a condition requiring details of foul and surface water drainage.

## **Responses to Publicity**

Woodville Parish Council supports the application emphasising the community benefit that will be gained by a grant of permission subject to the freehold ownership of the

remainder of the land being transferred to the Parish for provision of further allotments in the future.

Two objections have been received, raising the following concerns:

- a) one objector sought permission for more than the two dwellings on the land to the south, but were denied this approach leaving no option but to pursue the “infill” allowance under planning policy;
- b) the surrounding roads cannot take any more traffic;
- c) health services cannot cope with more residents; and
- d) it will further spoil the environment.

### **Development Plan Policies**

The relevant policies are:

Saved Local Plan 1998: Housing Policies 4 and 11 (H4 and H11); Transport Policy 6 (T6); and Environment Policies 1, 9 and 10 (EV1, EV9 and EV10).

### **Emerging Development Plan Policies**

The relevant policies are:

Pre-Submission Local Plan 2014: Policy S1 (Sustainable Growth Strategy); Policy S2 (Presumption in Favour of Sustainable Development); Policy S4 (Housing Strategy); Policy S6 (Sustainable Access); Policy H1 (Settlement Hierarchy); Policy SD1 (Amenity and Environmental Quality); Policy SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); Policy SD4 (Contaminated Land and Mining Legacy Issues); Policy BNE1 (Design Excellence); Policy BNE3 (Biodiversity); and Policy BNE4 (Landscape Character and Local Distinctiveness).

### **National Guidance**

National Planning Policy Framework (NPPF): with particular reference to paragraphs 6, 7, 8, 11, 12, 14, 17, 32, 39, 47, 49, 58, 61, 69, 70, 74, 96, 109, 118, 120, 121, 186, 187, 196, 197, 203, 204, 206, 215 and 216.

National Planning Policy Guidance (NPPG).

### **Local Guidance**

Housing Design and Layout Supplementary Planning Guidance (SPG).

### **Planning Considerations**

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

- Weight afforded to Development Plan policies;
- The principle of development;
- Loss of allotments;
- Impact on highway safety;
- Biodiversity impacts; and

- Design and amenity

## Planning Assessment

### Weight afforded to Development Plan policies

Housing Policy 4 allows for development within the settlement confines of Woodville and on the fringes, subject to certain criteria. Paragraphs 215 and 216 of the NPPF highlight that the weight which may be afforded to policies depends on their consistency with the NPPF. Paragraph 55 of the NPPF is relevant stating *"housing should be located where it will enhance or maintain the vitality of rural communities"*. It also states that Councils *"should avoid new isolated homes in the countryside unless there are special circumstances"*. Taking cues from recent appeal decisions and that stated by the Inspector in 2003 it is not considered this proposal constitutes "isolated homes" and is sustainable in locational terms. In essence Housing Policy 4 can be afforded considerable weight in allowing the principle of residential development outside of the settlement boundary but on the fringes of Woodville in this sustainable location. Consequently full consideration of the proposal against the terms of this policy is necessary and is discussed below.

Turning briefly to remaining policies the above emphasis is material. It is important to note that the presumption in favour (paragraph 14 of the NPPF) is one in favour of sustainable development - not any development. It is necessary, as a preliminary issue, to determine whether the proposed development is sustainable in the wider realm (i.e. the NPPF taken as a whole as advocated by paragraphs 6 to 8). The courts have ratified this approach as well as confirming that Local Plan policies not related to the supply of housing are not automatically "stood down". It is thus reasonable to conclude that conflict with the Framework, and indeed the remaining Development Plan policies quoted above, could lead to the proposal being defined as unsustainable.

### The principle of development

Housing Policy 4 requires, amongst other criteria, that the proposal does not result in a prominent intrusion into the rural landscape outside of the built up area; does not involve the loss of the best and most versatile agricultural land; and does not involve the development of open spaces, gaps and landscape features which make a valuable contribution to the character or the environmental quality of the area. These points were considered by the Inspector hearing the 2004 appeal, and in summary he found:

- the form of development in the vicinity is generally that of low density frontage housing although development in depth has occurred, namely Millfield Street and Beech Drive;
- notwithstanding the above the pattern of development in the area is distinctly linear with significant open parcels of land and gaps between properties on each side of the road which give a semi-rural character;
- the wider allotments site performed as an important transitional function between the open countryside and more dense development to the west (Woodville); and
- the resultant development in depth would consolidate housing on the fringe of the village and would fail to satisfactorily relate to the prevailing pattern of development.

In applying the policy criteria, it is considered the proposal does not result in a prominent intrusion into the rural landscape outside of the built up area. This is because the northern limit of development would more or less square off the depth of development provided by Millfield Street, 59 Ashby Road and Beech Drive further east. The proposal would also not involve the loss of the best and most versatile agricultural land.

The proposal however does involve the development of open spaces, gaps and landscape features which make a valuable contribution to the character or the environmental quality of the area. It is of considerable weight that the character as described at the time of that appeal decision remains similar today. However there is a significant material consideration which must be considered - that is the infill permission for frontage development to the south. It is not unreasonable to assume that this will be implemented given Reserved Matters approval was given very recently and the market demand for housing. In addition that land is now under separate ownership meaning there is an incentive to develop or lose that benefit. The effect of its implementation would considerably change the description of character given by the Inspector in that this gap, which presently gives a semi-rural character, would no longer exist. A continuous development frontage to Ashby Road would arise such that the value of the existing character has already been degraded. As such the gap would no longer make a valuable contribution to the character or the environmental quality of the area, with the infill permission and not this particular proposal leading to the loss of such a gap.

The proposal would still lead to development in depth and consolidate housing on the fringe of the settlement. However this is not a policy conflict; instead conflict with the Inspector's view. As mentioned above the proposal is not considered to represent a prominent intrusion into the rural landscape. It is therefore considered that the proposal complies with Housing Policy 4 and the conflict with the Inspector's stance is discussed further in the balancing exercise below.

#### Loss of allotments

A suitable mechanism is offered to replace and enhance this provision in line with paragraph 74 of the NPPF. This ensures acceptability of their loss in principle. However caution is given to this "sequential" approach. No evidence has been supplied that the allotments cannot continue to serve their purpose, with aerial photography demonstrating that they were still in use in 2011 (at least). Agricultural/horticultural land can be reinvigorated by application of nitrates and this is a practice applied across the world by farmers to ensure year on year productivity. It is therefore considered that the provision of new allotments does not arise from an identified need for alternative allotments, but merely a result of planning policy requirements pertinent to this application. In short there is nothing before the Council to demonstrate a refusal would mean this land could not be brought back into productive use. With this in mind only modest weight is given to the community benefits which arise here, given it is a policy requirement for mitigation to be provided for development to be successful.

#### Impact on highway safety

The County Highway considers the principle of access is acceptable subject to conditions. Having considered the conditions attached and the permission already granted for development fronting Ashby Road, the requirements can be achieved. The

degree of parking provision is also likely to be adequate given the relevant condition requested and sufficient space within the layout to likely achieve this.

### Biodiversity impacts

The findings of the protected species appraisal satisfy the Council's requirement to have regard to the Habitats Directive in determining applications. The impacts arising are considered to be acceptable subject to suitable protection of existing vegetation and enhancement of this with additional planting, which can be secured under reserved matters.

### Design and amenity

The layout, scale and appearance of the dwellings are not yet detailed. It is considered the illustrative layout is a reasonable representation of what may arise. This layout is of little concern with ample space to provide for gardens and tree planting to recognise the National Forest location whilst accommodating existing features (such as a significant willow). The principle of two-storey dwellings is acceptable with amenity standards set out in the SPG likely to be complied with, and conditions can ensure appropriate detailing and materials alongside hard and soft landscaping secured under reserved matters.

The Coal Authority considers that the content and conclusions of the Coal Mining Risk Assessment Report are sufficient and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development.

### Balancing exercise and determining whether the development is sustainable

It is first necessary to reach a view on whether the proposal is sustainable, or can be made sustainable through planning obligations and conditions, before applying the presumption in favour of development. If the presumption applies consideration then turns to whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits arising.

The above assessment identifies there is general compliance with policy with no technical matters which cannot be addressed by way of conditions or planning obligations. The site is also sustainably located close to a main urban centre. The presumption in favour can therefore apply. Whilst 3 additional dwellings towards the 5-year housing supply is not normally of such material benefit in achieving the housing needs for the District, the degree of harm arising must be weighed against this, and this harm is limited to the impacts arising from consolidation of the built form rather than loss of an important gap which sets the character of the area. As the site is no longer considered to make a valuable contribution to the character of the area with the crucial harm having already been established under the infill development, the recommendation below follows.

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

### **Recommendation**

**GRANT** permission subject to the completion of a Unilateral Undertaking to secure compensatory land for use as allotments and subject to the following conditions:

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

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

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

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

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

3. Details submitted with condition 2 shall also include scale drawings of the eaves and verges and cills and headers to windows and doors, details of boundary treatments, details of hard landscaping features, details of measures to protect existing trees and hedges on or adjoining the site, and where possible details of facing bricks and roof tiles.

Reason: The Local Planning Authority has to ensure that the details submitted under Reserved Matters are satisfactory, and in the interests of efficient planning.

4. The development shall be implemented in accordance with the recommendations of the submitted Coal Mining Risk Assessment, in particular with regard to intrusive site investigation works (which shall be undertaken prior to the commencement of any other development) and any resultant remedial works identified by the site investigation.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

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

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

6. The access into the site shall have a minimum width of 4.8m in order to allow vehicles to enter and leave the site simultaneously and avoid the need for drivers wishing to turn into the site waiting for longer than necessary on the busy classified highway or reversing from the access to allow another vehicle to exit, all in the interests of highway safety.

Reason: In the interests of highway safety.

7. No development shall commence until a shared turning area measuring at least 9m x 9m shall be provided within the site to allow vehicles to enter, turn and leave the site in a forward gear, to avoid the need to reverse from the access onto Ashby Road contrary to the best interests of highway safety.

Reason: In the interests of highway safety.

8. Any garage intended as a parking space shall have internal dimensions of 6m x 3m per vehicle intended to occupy. Any external parking space shall measure at least 2.4m x 4.8m with an additional 0.5m in width where located against a solid boundary.

Reason: In the interests of highway safety.

9. Any gates shall be set back at least 5m from the highway boundary and open inwards only.

Reason: In the interests of highway safety.

#### Informatives:

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, meetings and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset.

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: [www.coal.gov.uk/services/permissions/index.cfm](http://www.coal.gov.uk/services/permissions/index.cfm).



**Item**            **1.3**

**Reg. No.**        **9/2014/0247/FH**

**APPLICANT:**  
**MR JEFFERY ELEY**  
**24A UTTOXETER ROAD**  
**HATTON**  
**DERBY**  
**DE65 5PX**

**AGENT:**  
**MR ALAN TYRES**  
**63 KINGS DRIVE**  
**LITTLEOVER**  
**DERBY**  
**DE23 6EX**

**Proposal:**        **ERECTION OF AN EXTENSION AT 24A UTTOXETER ROAD HATTON DERBY**

**Ward:**            **HATTON/HILTON**

**Valid Date:**      **12/03/2014**

**Reason for committee determination**

Councillor Bale (ward member) has requested that the Planning Committee determine this application as local concern has been expressed about a particular issue.

**Site Description**

The property in question is a large two-storey detached dwelling situated centrally in a large plot fronting Uttoxeter Road (A511). The house and the neighbouring houses are located outside of the main core of Hatton and the street scene is mixed; some older cottages interspersed with more modern, larger infill 'development'. The housing here is mainly on the northern side of the road. There are though a small number of properties on the southern side of the road including one directly opposite this site.

**Proposal**

The proposal is an extension to the side of the house which would supplement the garaging/storage provision on the site. It would be of a single storey height (2.8m at its tallest point) and feature a lean-to mono-pitch roof. Its full depth is some 12m.

**Applicants' supporting information**

None.

**Planning History**

No relevant history.

# 9/2014/0247 - 24a Uttoxeter Road, Hatton, Derby DE65 5PX



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

**South Derbyshire District Council. LA 100019461. 2014**

## **Responses to Publicity**

County Highways – No objections.

Neither Foston & Scropton nor Hatton Parish Councils object.

Two neighbour comments have been received. Their comments are summarised as:

- The development will block daylight to nearby windows and general 'views' will be obstructed
- The extension is out of context with the nearby properties. It would also resemble a farmyard and not the ideal country location used to.
- Extension is badly thought out;
- Extension would lead to an unacceptable loss of light to adjacent windows
- Allowing an extension may set a precedent in regards development in front of the building line;
- Out of scale and overbearing, being disproportionately large in relation to the cottages alongside;
- Potential dangers to road safety (exiting the site etc.). Concern in regards a wall shown on the plans

## **Development Plan Policies**

Local Plan Housing Policy13

Supplementary Planning Guidance (SPG): Extending Your Home.

## **National Guidance**

National Planning Policy Framework (NPPF), paragraphs 14, 17 and 56

## **Planning Considerations**

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

- The impact on the character and appearance of the locality;
- The impact on neighbours assessed against the Council's adopted standards.

## **Planning Assessment**

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

The part of the extension adjacent to the existing garage has no adverse impact on either the character of the area or on neighbouring amenity. Where the proposal projects 'forward' of the existing built forms though, its mass/finished height is modest and wholly subservient to nearby built forms. Views of its forward projection could be effectively screened by cars, hedges and existing boundary treatments (that 'screening' including the present 1.6m high boundary fence between Nos. 24a and 22 Uttoxeter Road. At other points along this stretch of road are built forms (dwellings, garages or fencing/walls) immediately adjacent to the pavement, the result of more modern development (infill plots). One neighbour objects because it would have a farmyard appearance. Although this is not thoroughly understood, the property is in a semi-rural

situation with a variety of land uses in the locality including farm type/agricultural premises nearby.

#### The impact on neighbours assessed against the Council's adopted standards

There is no reasonable case for overbearance/loss of light caused by this development. Supplementary guidance 'Extending your Home' looks to protect nearby primary ground floor windows from overbearance caused by, in the main two storey forms – this development is single storey. Whilst it is acknowledged there may be a change to light levels, a permissible 2m high boundary wall would cause a similar loss of light/aspect. The roof pitch is shallow and also favourable in regards it sloping away from the boundary.

The situation is helped further by the fact that No 22 Uttoxeter Road (and indeed the affected living room window) is set away from the boundary as opposed to being hard up against it. It is judged therefore that the extension would not unduly affect the neighbours' amenity.

One of the objectors raises a concern in regards highway safety (exiting the site in a car etc.). Whilst the development may alter the existing arrangements, the Highway Authority has offered no objection.

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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture.  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the height of the boundary treatment (that shown on the 'impression' drawing) to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.  
Reason: In the interests of the appearance of the area.

**Item**            **1.4**

**Reg. No.**        **9/2014/0280/B**

**Applicant:**  
**MR DEWAN REZA**  
**30 KING EDWARD ROAD**  
**LOUGHBOROUGH**  
**LEICESTER**  
**LE11 1RZ**

**Agent:**  
**MR DEWAN REZA**  
**30 KING EDWARD ROAD**  
**LOUGHBOROUGH**  
**LEICESTER**  
**LE11 1RZ**

**Proposal:**        **THE VARIATION OF CONDITION 3 ATTACHED TO**  
                         **PLANNING PERMISSION 9/2011/0236/B TO OPEN 17.30-**  
                         **00.00 HRS MONDAY TO SATURDAY AND BANK**  
                         **HOLIDAYS AT 61 DERBY ROAD MELBOURNE DERBY**

**Ward:**            **MELBOURNE**

**Valid Date:**      **07/04/2014**

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

The application is brought before the Committee at the discretion of the Planning Services Manager, as a similar application was refused at committee previously.

#### **Site Description**

The property is situated at the corner of Derby Road and South Street. The ground floor has been in use as a restaurant for 4 years. Whilst the immediate area is predominantly residential in land use, the adjoining property is the Alma public house and the former Liberal Club (now Amalfi White Restaurant) is situated opposite. However, Derby Road, from the town centre to Victoria Street, contains a wide mix of land uses, reflecting Melbourne's size and historic pattern of development.

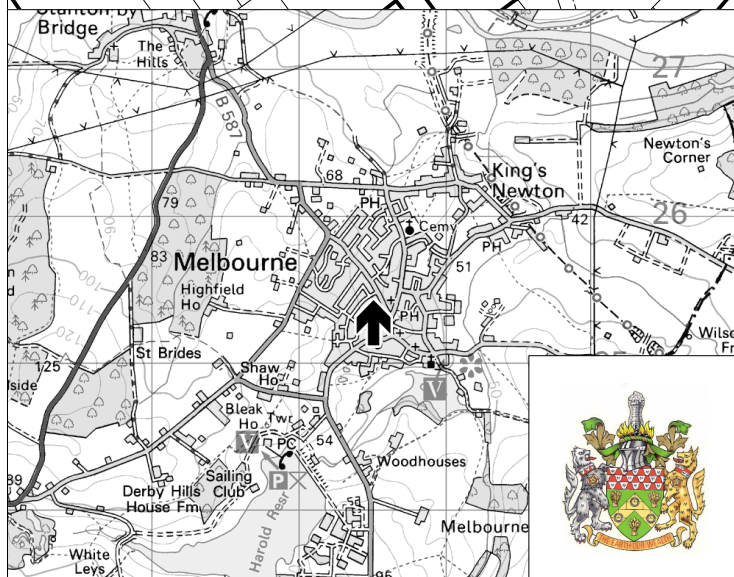
#### **Proposal**

The applicant wishes to extend the permitted opening hours to enable the restaurant to serve food between 1730 hrs - 0000 hrs Monday to Saturday and Bank Holidays. It would not be open at all on Sundays. At present, from Monday to Thursday the premises is restricted to 22:30 and in 2011 permission was granted to extend the hours to 23:00 Friday, Saturday and Bank Holidays.

#### **Applicants' supporting information**

The applicant states that the increase to midnight would reduce traffic build up and the so customers can dine later and stay longer. Many local residents have signed a petition in support of the application (a petition of support accompanies the application, with a total of 215 signatures).

9/2014/0280 - 61 Derby Road, Melbourne, Derby DE73 8FE



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

**South Derbyshire District Council. LA 100019461. 2014**

## **Planning History**

9/2011/0236 - the variation of condition 4 of planning permission 9/2010/0785 to permit opening between the hours of 17:30-23:00 on Friday, Saturday and bank holidays - permitted at Committee 31/5/11;

9/2011/0079 - The variation of condition 2 of planning permission 9/2010/0785 to allow delivery of hot food for consumption off the premises - permitted.

9/2010/0966 - the variation of condition 4 of planning permission 9/2010/0785 to permit opening between the hours of 17:30-23:00 Monday to Sunday including bank holidays – refused at Committee 23/11/10;  
*"The extension of opening hours will result in cumulative noise and disturbance that will adversely affect the amenities of neighbouring residential properties contrary to Saved Local Plan Shopping Policy 3."*

9/2010/0785 - Use as a restaurant - permitted. A condition was imposed restricting hours of opening to those specified in the application;  
*"The use hereby permitted shall not be open to customers and no customers shall remain on the premises outside the following times: Monday to Saturday 1730 hrs - 2230 hrs. The premises shall not be open for business on Sundays and Bank Holidays"*

## **Responses to Consultations**

Melbourne Parish Council has no objections.

The Environmental Health Manager has no objection but advises that the applicant should apply to the Licencing Team should they wish to serve food past 11pm.

## **Responses to Publicity**

Two letters of objection have been received from the flat above the restaurant and a neighbouring property. Their concerns are that it would cater for people leaving public houses at 11pm and may cause anti-social behaviour. The opening times have been increased twice already and this extension would be detrimental to their enjoyment of their dwellings. After the restaurant finishes serving it takes half an hour for people to leave and takes the staff an hour to clean up so therefore it may be 1:30am before it becomes quiet and this would be during the week where people have to get up for work.

Melbourne Civic Society states that they believe the Amalfi White which is much larger is open until midnight; there are no objections if this is the case.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Environment Policy 12, Transport Policy 6 and Shopping Policy 3.

Draft Local Plan: SD8 - Amenity

## **National Guidance**

## **Planning Considerations**

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

- Impact on the character of the conservation area.
- Residential amenity.

## **Planning Assessment**

The proposed extended opening hours would not give rise to a change in the character of the conservation area.

On the advice of the Environmental Health Manager, and having regard to the immediate proximity of the Alma Inn, the proposed use would not result in demonstrable harm to the living conditions of residential neighbours. The applicant has been running this business with the extended opening hours for 3 years and no complaints have been received. The Alma Inn's hours are not restricted by a planning condition; however, its licensing hours are 10 - 23:30 Monday to Thursday, 10 - 00:30 Fridays and Saturdays and 10 - 00:30 on Bank Holidays. The Amalfi White does not have an hours of use restriction and restaurant opening times on the website are until midnight on Weds, Thurs, Fri and Sat and 11am-9pm Sundays and Bank Holidays. It is closed on Mon and Tues. The advice of the Environmental Health Manager is given in the context of an area that already contains these other town centre uses.

There is no evidence that traffic would increase as a result of the extended hours.

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 premises shall be used solely for a purpose falling within Class A3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or for delivering food direct to customers' premises. In particular there shall be no sales of hot food to visitors to the premises for consumption off the premises.

Reason: In the interests of highway safety and the amenity of the occupiers of nearby dwellinghouses.

2. The fume extraction system and maintenance arrangements as set out in Mick Hawkes technical drawing nos. MEL001/2010, MEL003/2010, Baffle Filter Drawing and e-mail dated 18 April 2011 shall be retained in place for the duration of the permitted use unless as may otherwise be agreed in writing with the Local Planning Authority.

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



3. The use hereby permitted shall not be open to customers and no customers shall remain on the premises outside the following times: Monday to Saturday 1730 hrs - 00:00 hrs; and Bank Holidays 1730 hrs - 00:00 hrs. The premises shall not be open for business on Sundays.

Reason: For the avoidance of doubt, these being the hours specified in the application and to ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

## **2. PLANNING AND OTHER APPEALS**

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2013/0922	Melbourne	Melbourne	Dismissed	Delegated

---

# Appeal Decision

Site visit made on 7 May 2014

**by S Ashworth BA (Hons) BPI MRTPI**

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

**Decision date: 4 June 2014**

---

**Appeal Ref: APP/F1040/A/14/2214209**

**Main Street, Melbourne, Derby DE73 8BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Mark Earp against the decision of South Derbyshire District Council.
  - The application Ref 9/2013/0922, dated 8 November 2013, was refused by notice dated 7 February 2014.
  - The development proposed is residential development.
- 

## Decision

1. The appeal is dismissed.

## Preliminary matters

2. The application was submitted in outline with all matters reserved for subsequent approval. I have dealt with the appeal on this basis.
3. I have considered the Planning Practice Guidance published on 6 March 2014. However, in the light of the facts of this case its content does not alter my conclusions on the main issues in this case.

## Main Issue

4. The main issue in this case is whether the development proposed would be consistent with the principles of sustainable development having regard to the National Planning Policy Framework and the development plan including the effect of the development on the character and appearance of the area.

## Reasons

5. The site is a rectangular area of open agricultural land with a frontage of some 160 metres to Main Road. The site is bounded to the east by a hedge beyond which is a railway cutting and open countryside beyond that. To the north-west is a single detached dwelling and to the south-east a short ribbon of residential properties. There is one residential property opposite the site which is surrounded by open land.
6. The development plan comprises the saved policies of the South Derbyshire Local Plan (SDLP) adopted in 1998. Whilst dated, these policies are to be given due weight according to their degree of consistency with the National Planning Policy Framework (NPPF).

7. The most relevant policies of the SDLP are Environment Policy 1 and Housing Policy 8 which seek to restrict development outside settlements to that which is essential or unavoidable in order to protect the character of the countryside. This chimes with one of the core principles of the Framework which requires that the intrinsic character and beauty of the countryside is recognised in making planning decisions. The policies above set out specific criteria for exceptions to the general principle, consistent with paragraph 55 of the Framework which seeks to restrict isolated homes in the countryside except in certain circumstances. The proposal does not meet the exceptions tests set out in either the policies or the Framework.
8. A new local plan is emerging, currently titled the South Derbyshire Pre-submission Local Plan March 2014. The relevant policy of this emerging document is Policy S4 which sets out a housing strategy for the plan period in which non-strategic sites are to be dealt with in accordance with the settlement hierarchy at Policy H1. Policy H1 identifies Melbourne as being a key village and Kings Newton as a rural settlement within which small developments may be promoted 'according to settlement circumstances'. Nevertheless, the plan has not yet been the subject of examination, and I can afford it only limited weight.
9. A material consideration in this appeal is the supply of housing land. It is agreed by the parties that a five year supply of housing in the Borough cannot be identified. Paragraph 49 of the Framework explains that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for housing development should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable sites. Permission should be granted where 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Policies in this Framework taken as a whole' (paragraph 14).
10. Melbourne is a thriving small town with a range of services. The site is around 1km from it and therefore not particularly sustainable in terms of distance although it lies quite close to a bus service that runs along Station Road. Nevertheless sustainable development is a broader based concept than just distances to services encompassing environmental, social and economic factors as set out on paragraph 7 of the Framework. Given its relatively isolated location the proposed development would not integrate well into the existing settlement and would therefore offer little contribution in terms of its social aspect. Moreover it would not enhance or maintain the vitality of the community as required by paragraph 55 of the Framework and would not establish a strong sense of place or function well (paragraph 58).
11. The main benefits of the scheme would be the contribution of the dwellings to the supply of housing in the locality plus benefits to the economy during the construction period and beyond. However, given the limited number of dwellings that could be accommodated on the plot, these benefits would be relatively modest and need to be balanced against any harm to the character of the countryside.
12. The appeal site is part of the rural landscape, forming part of a swathe of land from Melbourne to the wider countryside to the east. The development of the site with a ribbon of development would alter the street scene, the character of

the surroundings and the appearance of this element of the countryside. Instead of the current open space the site would be filled with an almost continuous line of buildings creating a more urban environment and confining views to the roadside. The presence and continuity of built development on this side of the road would be accentuated thereby diminishing the contrast between the village and the countryside. I note that the illustrative layout demonstrates a single access point which would allow the frontage boundary hedge to be retained and dwellings set back into the site. Whilst this would help soften its appearance, nevertheless, the development because of its character and form would adversely affect the character of the site.

13. In longer range views from the east it is possible to glimpse the roofs of the existing development albeit that the bulk of the buildings is screened by planting. The roofs of the new development would also therefore be visible, particularly in winter months and this adds to my conclusion on the urbanising effect of the development on the character of the area.
14. I therefore conclude that the proposal would be contrary to Environment Policy 1 and Housing Policy 8 of the SDLP which seek to safeguard the character and appearance of the countryside, and to advice within the National Planning Policy Framework. The harm that such a development would cause would significantly and demonstrably outweigh the very modest benefits of providing a small increase in housing provision and economic gain.
15. I have considered the Council's concern that the proposal would have an adverse effect on the Kings Newton Conservation Area. Whilst I accept that the contrast between the built-up area and open countryside would be diminished, the site is physically and visually remote from the Conservation Area such that the development would not affect its setting. The character of the Conservation Area, as set out in the character of the Conservation Area Character Statement 2011, is defined by amongst other things, the range of historic buildings; its strong architectural presence and detail; and high quality views within it. The distance of the appeal site from the Conservation Area would mean that its character would remain uncompromised, despite glimpses of it from Jawbone Lane and other viewpoints.

## **Other Matters**

16. I have taken into consideration the appellant's comments that the land may not be of the highest agricultural quality, is relatively small and does not currently form part of an agricultural holding. Be this as it may, it does not have a bearing on the main issue.
17. The appellant has drawn my attention to a planning officer report on a proposal for residential development at Linton, although I note that planning permission for that scheme was refused. Whilst there appears to be some similarity between the proposals, they are not directly comparable. The proposed development at Linton was for a significantly larger development of 110 dwellings and would have therefore provided a more significant contribution to housing supply as well as being more sustainable in terms of its economic and social aspects. I note that consideration of the case, as in this one, involved a balance of the benefits of the proposal against harm to the countryside. Notwithstanding the officers recommendation on this proposal I have dealt with the appeal before me on its own merits.

18. I have noted comments from residents relating to highway safety. However, no objections have been made by the Highway Authority and there is no convincing evidence that highway safety would be compromised. I appreciate concerns regarding the effect of the development on the living conditions at the adjoining property. This is a matter that, had the application been allowed could have been dealt with by condition and would have been assessed at the reserved matters stage. However, none of these matters outweighs my conclusions on the main issue or the harm identified

**Conclusion**

19. For the reasons outlined above, and taking into account all other matters raised, the appeal is dismissed.

*S. Ashworth*

INSPECTOR