

## DEVELOPMENT CONTROL COMMITTEE – 26 October 2004

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

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### REPORT OF THE PLANNING SERVICES MANAGER

#### 1. Planning Application

#### 2. Appeals

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

1. The issues of fact raised by the Planning Services Manager's 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 Planning Services Manager, 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.



26/10/2004

**Item** 1.1**Reg. No.** 92004 0796M**Applicant:**

Dove Valley Park Ltd  
 3rd Floor Royal Buildings  
 Victoria Street  
 Derby  
 DE11ES

**Agent:**

T S Design Group  
 58 Portswood Road  
 Southampton  
 Hampshire  
 SO172FW

**Proposal:** Amendments to perimeter planting and bunding scheme previously approved under planning permission 9/1993/0445/D at the perimeter landscaping at Dove Valley Park Foston

**Ward:** North West**Valid Date:** 21/06/2004**Supplementary Report**

Members will recall that at its meeting of 14 September 2004 the Committee was minded to refuse planning permission pending further discussions with the applicant company to ascertain whether the erection of the mound could be deferred to a later date within a more meaningful context.

In response the applicants' agent has submitted a statement which calls the report to committee (attached at annex A) "a clear and accurate assessment of the proposals" but that they are aware of the confusion that may exist concerning the position of the planting adjacent to Heathtop Lane. In this respect, they state the following:-

- The proposed area of tree and shrub planting remains as originally agreed in the early 1990's (under permission 9/1990/0155/0 and 9/1993/0445).
- The location acknowledges the existing topographical feature of the original farmland where it is bounded by a hedgerow and a farmacadamed road. It enhances the effect of a leafy English country lane.
- This existing natural landscape feature is to be reinforced by supplementary planting upon a grass bank, the height and width of which is solely the subject of this application.
- The further enhancement to the previously approved landscape margin will ultimately benefit the amenities of the area by more effectively screening the permitted B1, B2 and B8 development from the distant views to the north.
- The increased height of the grassed bank and effective tree screen will improve this view. The simple triganography shows that the screening effect is greater as one moves further from the actual development and closer towards the village.

- In this particular circumstance, moving the planting to south would actually negate any benefit by placing it closer to the building structures. The benefit would be further lessened by moving it down the site, as the ground itself falls towards the A50. In landscape terms, an earth mound in the middle of this area would create an artificial feature and would be out of its natural context.
- There already exists circa 15,000 cubic metres of material excavated from ground works relating to the existing development that is stockpiled on site. It is intended that this, and further excavated material, is used to uplift the landscape to the perimeter and recovered using the surplus topsoil from the development site.
- Reusing this material on site will enhance the environment by reducing the impact of the development during construction as traffic movements in loading and transporting the material and tipping off site will be avoided. This will be fully in line with the Government's policy relating to sustainability.
- Any perceived correlation between this application and adjacent land use is not a material planning consideration and this current proposal should be considered on its own merit.
- Church Broughton Parish Council has made known their view on allowing Phase II of DVP to proceed.
- The routes of the public footways onto Heathtop Lane are acknowledged and the landscaped areas will be graded to allow for these rights of way to be maintained.
- The proposal is to use only materials excavated from Dove Valley Park and the bund would be formed from the continuing development of the Park. The concern that the landscaping will set a precedent for the extension to Dove Valley Park is therefore unfounded.

In conclusion they believe that the report from the planning case officer correctly identifies the relevant issues and that consent exists for a bund with landscaping on this boundary. The decision therefore rests on whether the additional bund height is such that refusal of the permission is justified. Their view is that the proposal will help to further screen the development already permitted on Dove Valley Park and should be welcomed as a further benefit; indeed they state that this reflects the view of Foston and Scropton parish Council who, they believe, welcome the improvement in the proposed landscape.

26/10/2004

**Item** 1.2**Reg. No.** 92004 0893U**Applicant:**

Mr G Mountford  
 Royle Farmhouse Caldwell Road  
 Drakelow  
 Burton-on-trent  
 Staffordshire  
 DE15 9TU

**Agent:**

Fisher German  
 The Grange  
 80 Tamworth Road  
 Ashby De La Zouch  
 Leicestershire  
 LE65 2BW

**Proposal:** **The provision of an off-road motorcycle riding facility together with classroom and changing facilities in the existing office block at Royle Farm Caldwell Road Drakelow Burton-on-Trent**

**Ward:** **Linton**

**Valid Date:** **15/07/2004**

**Site Description**

The site for the proposed tracks is agricultural land with hedges and trees on the field boundaries. The land is located to the north and north east of former agricultural buildings which are now B1 and B8 units, one of the buildings currently used as offices, would be used to provide classrooms and changing facilities associated with the proposed use. The site is within the open countryside; the nearest dwellings are accessed from Rosliston Road South and are over 250 metres from the edge of the nearest track.

**Proposal**

The application proposes the creation of an off road motorcycle riding facility together with classroom and changing facilities. The facility would consist of a practice area adjacent to existing buildings and two tracks created around adjoining agricultural land. The Applicant has stated that they wish to run the programme five days a week between 9am and 4pm using 8 bikes and 4-6 quad machines/ buggies and that the courses would be run for corporate groups and private clients who had pre-booked and were using the centre's bikes only. The Applicant has specified the type of bikes to be used which utilise low noise emission motorcycle technology.

**Applicants' supporting information**

The Applicant has submitted a supporting planning statement, a noise assessment and a follow up letter to the noise assessment proposing additional noise control measures.

The conclusions of the noise assessment are:

- The noise impact from the planned off road experience would be minimal judged against the lowest ambient noise levels recorded in the noise survey
- For most normal days the predicted noise levels would be less than the ambient noise levels
- The predicted noise levels arising from the off road experience are significantly below the World Health Organisation criterion for moderate annoyance.

Thus overall the predicted noise impact from the proposed development is not a material reason why the development should not go ahead.

Following a visit to the site by Environmental Health Officers to record noise levels for a demonstration of two vehicles a letter was received from the noise consultants proposing the following additional noise control measures:

- Reduction of the transmission noise from the Buggies. This can be tackled in one of two ways. The transmission system can be quietened by utilising higher specification gear sets within the transmission. These gear sets would be manufactured to higher tolerance specification and would reduce the transmission noise at source. Alternatively Quad bikes could replace the Buggies. The Quad bikes are slightly noisier overall but do not have the transmission whine.
- Earth Bunding around the noise sensitive sides of the riding circuits. The whole area around the circuits will be extensively landscaped when the circuits are constructed and there will be sufficient material to build 5m high bunds along the west and north boundaries. This will greatly reduce the noise travelling towards Flint Mill and will provide some mitigation in the direction of Stapenhill Fields Farm.
- Vertical profiling of the circuits. Additional landscaping could produce small earth bunds between the different sections of the circuits. This would act as additional acoustic shielding and would be highly effective as the bunding would be close to the noise source. Both forms of bunding would be effective for the high frequency transmission noise from the Buggies.

Possible operational changes are:

- Replace the Buggies with Quad bikes as per the original proposals. This would remove the problem of the transmission noise from the Buggies. However it should be noted that there are several safety reasons why Buggies are preferable to Quads. The Buggy has an integral safety cage that protects the driver if it should roll over; the Buggy has full four point safety harness; the Buggy is wider and so less likely to topple over and having an automatic transmission is simpler to drive.
- Restriction of Buggies to North Circuit 2. This would locate the Buggies at the furthest distance from the noise sensitive properties and the quieter motorcycles would only be driven on the nearer North Circuit 1.

These additional measures will further remove the possibility of noise disturbance from the off road experience and are evidence of the operator's commitment to living at peace with their neighbours. The operators are happy to have an agreed noise control programme as a condition of the planning permission and are willing to work with the Council to reach a workable and effective solution to any noise issues.

The planning statement clarifies the precise nature of the proposal and daily routine to be undertaken and considers the proposal in the light of the National Forest Strategy, Leisure and Tourism Policy 2 of the Structure Plan, Recreation and Tourism Policy of the Local Plan, Policy

LRT 3 of the Emerging Local Plan and Planning Bulletin 6 from Sport England. The conclusions of the planning statement are:

- The proposed facility is fully in accord with the objectives and specific aims of the National Forest Strategy and will provide a complimentary facility to further those objectives. The scheme will provide a tourist attraction which will match the standards and reputation for off road riding that the Ron Haslam Race School provides at Donington for road racing/ track knowledge. This will provide a visitor attraction which this area of South Derbyshire currently lacks.
- It will be demonstrated through a noise impact assessment undertaken by Dr Mike Fillery of Symonds that predicted noise levels from the machinery would be less than the ambient noise levels and predicted noise levels would be significantly below the World Health Organisation criteria for moderate annoyance.

### **Planning History**

Several planning applications have been approved for use of the former agricultural buildings surrounding Royle Farm as B1 (light industrial) and B8 (storage and distribution) units.

### **Responses to Consultations**

The County Highway Authority consider that bearing in mind the uses that already exist at Royle Farm it would be difficult to demonstrate that the proposed operations would materially affect highway conditions.

The National Forest Company state that the site in question is land proposed to be planted to woodland through the National Forest Tender Scheme. As part of the Tender Scheme contract the applicant has agreed to enter 100% of the site as public access land for walkers, with around 8100 metres of unsurfaced permissive paths. The NFC is concerned that use of part of the site for motorcycle riding could be at odds with the Tender Scheme contract (ie. restrict the 100% public access proposed).

The Head of Environmental Health states that the track developers have suggested the track will be used five days a week, with riding taking place over 4 hours each day. The noise report submitted with the application states that noise 'is not a material reason why the development should not go ahead'. Environmental Health are concerned that if the activities are not carefully managed there is the potential for significant noise disturbance therefore they recommend a series of detailed conditions controlling the use.

### **Responses to Publicity**

Thirty nine letters of representation have been received raising the following issues:-

- The fact that there are heavy traffic volumes on Rosliston Road South already including HGV traffic and that the proposed use will increase traffic and therefore adversely affect highway safety.
- Noise pollution and air pollution from the running of the bikes will adversely affect the amenity of the occupiers of nearby dwellings especially at weekends.
- Infringement of the countryside, environment and National Forest the use will adversely affect the peace and tranquillity of the area and destroy wildlife.
- Horses are kept on land surrounding the site and these will be frightened by noise, children will not be able to ride the horses safely.

- Devaluation of property.
- Caldwell Road is narrow with blind corners, there are already accidents and the proposed use would generate more traffic which would be detrimental to highway safety. The entrance to Royle Farm is in a hazardous location.
- Wildlife has prospered on land adjoining Royle Farm in recent years, including rare species, and the proposed use would disturb and harm the wildlife.
- There are enough problems to cope with in the locality at the moment with noise from Roger Bullivant's factory all night, pollution from the dismantling of Drakelow Power Station and the proposed new road and building programme for the power station site.
- The use may create dust pollution.
- The Cauldwell Shoot based at Morriscroft Farm has a programme of breeding English Partridges and this would be adversely affected by the proposed use.
- Even though the motorcycles to be used have low noise emissions, this will still be noisy due to the numbers of machines being ridden at any one time.
- Five days a week is excessive.
- The area to be planted with trees and run over with motorbikes is in itself historic unploughed permanent pasture with a unique pumping system built into it and as such should be preserved.
- The noise reading was taken at the front of one of the nearby dwellings whereas the occupiers use the rear garden where noise levels would be higher.
- A bridlepath runs parallel to part of the proposed track and riding along the path would become unsafe due to noise unsettling the horses.
- First aid measures and accident prevention measures on the site are not mentioned.
- Motorcyclists riding around areas lined with trees could result in accidents.
- There are more suitable locations for this type of activity and the land is not sufficiently divorced from nearby dwellings.
- Adjacent farmland is used for grazing a pedigree cowherd and noise disturbance could cause problems particularly when cows are pregnant.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Leisure and Tourism Policy 4

Local Plan: Recreation and Tourism Policy 1

Emerging Local Plan: Policy LRT 3

### **Planning Considerations**

The main issues central to the determination of this application are the principle of the proposed use in a countryside location and impact on the character of the countryside, impact on the occupiers of neighbouring dwellings in terms of noise and disturbance and traffic generation and highway safety concerns.

### **Planning Assessment**

Policy LRT 3 of the emerging Local Plan outlines a sequential approach to locating new sports, leisure and tourism facilities, firstly within or on the edge of the towns and secondly within or on the edge of serviced villages, unless *'the development needs to be in a particular location because there is a meaningful and demonstrable link with the particular location.'* It is considered that the type of development proposed could not be located within or on the edge of a



town or village due to the noise impact on residents within the settlement and that a countryside location is therefore more likely to be appropriate. It is considered unlikely that a site would come forward in a location remote from dwellings that have a demonstrable link to motorcycling and in terms of the sequential approach of the above policy the site is considered acceptable. The site for the creation of the tracks is well away from any public highway and due to the undulating landform the tracks will not form a prominent feature in the landscape or be detrimental to the openness or character of the countryside. If the National Forest tender is successful the trees surrounding the site would form additional screening, it is considered that the concerns raised by the National Forest over public access is a matter to be resolved through their consideration of the tender application. The building to be used for changing and classroom facilities is already on the site and there would therefore be no new built development.

The site is in the countryside and people who use the facility would have to access it by the private car, as discussed above the type of use is not one that would be considered appropriate in an urban or village setting and it is not considered that refusal could be justified on grounds of sustainability. The County Highway Authority does not recommend refusal of the application on highway safety grounds as they consider that it would be difficult to demonstrate that the proposed operations would materially affect highway conditions bearing in mind the uses that already exist at the site.

Even though the site is within the countryside there are still dwellings within relatively close proximity and the occupiers could be affected by noise disturbance. The Applicant has carried out a noise survey, which the Environmental Health Section has studied and Environmental Health Officers have also measured noise levels during on site tests with two vehicles running. Environmental Health have not recommended refusal of the application but are concerned that if the activities are not carefully managed there is the potential for significant noise disturbance. Environmental Health therefore recommend a series of 10 conditions controlling the use, including Monday to Saturday use only, vehicles restricted to six on each circuit at any one time, vehicles limited to specified types and noise output levels and a personal permission for the Applicant. Environmental Health do however state that until the use is operational the actual extent of noise disturbance to surrounding properties cannot be thoroughly evaluated, they also state that if the use creates a statutory nuisance a noise abatement notice would be served. In view of the fact that the extent of disturbance to surrounding properties cannot be evaluated until the use has commenced it is considered that a temporary consent only would be appropriate in these circumstances so that further evaluation can be undertaken.

## **Recommendation**

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

1. This permission shall be for a limited period only, expiring on 26th October 2005 or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: A temporary permission only is considered appropriate in this case in view of the fact that the noise impact and levels of disturbance to occupiers of neighbouring dwellings cannot be fully evaluated until the use is operational.

2. Prior to the commencement of development detailed circuit layout plans, including earth bunding and vertical profiling, shall be submitted to and approved in writing by the Local Planning Authority and the circuits shall be constructed in accordance with the previously approved details.

Reason: In the interests of the appearance of the countryside and protecting the amenity of the occupiers of nearby dwellings from disturbance.

3. There should be no expansion of riding area from those indicated on the submitted plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the use can be controlled in the interests of the amenity of occupiers of dwellings near the application site.

4. There should be no more than six vehicles per circuit at any one time, with buggies restricted to north circuit 2, as defined in the noise assessment, only.

Reason: Any intensification of use is likely to be detrimental to the amenity of occupiers of dwellings surrounding the site.

5. The use hereby permitted shall not take place outside the hours of 9am to 4pm Mondays to Saturdays.

Reason: To ensure the use can be controlled in the interests of the amenity of occupiers of dwellings near the application site.

6. There should be no competition use, practise or otherwise, as per paragraph 2.1 in the accompanying Noise Assessment.

Reason: To ensure the use is controlled in the interests of the amenity of occupiers of dwellings near the application site.

7. Any substitute motorbikes should be of equal or lower sound power level to that quoted in section 4.2 of the submitted noise assessment. That is 97.9dB(A) for the motorcycle and 91.2 dB(A) for the four wheel 'buggy'. This is to be established in the manner set out in the submitted noise report. Any vehicles substitutes must be notified to and agreed in writing by the Local Planning Authority.

Reason: To ensure the use is controlled in the interests of the amenity of occupiers of dwellings near the application site.

8. There shall be no tannoy or similar address system in place.

Reason: In the interests of the amenity of occupiers of dwellings near the application site.

9. Proposed speed limiters and speed restrictions as specified in the noise report should be enforced for all riders.

Reason: To ensure the use can be controlled in the interests of the amenity of occupiers of dwellings near the application site.

10. A noise monitoring and control scheme should be agreed with the Local Planning Authority prior to the commencement of the use.

Reason: To ensure the use is controlled in the interests of the amenity of occupiers of dwellings near the application site.

11. This permission shall enure for the sole benefit of Mr G. Mountford.

Reason: To ensure the use is controlled in the interests of the amenity of occupiers of dwellings near the application site.

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

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

13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

Informatives:

Notwithstanding the above conditions, you are advised to note the following:

Although the site visits by the Environmental Health Department and the Symonds noise report submitted in support of this application are useful when predicting noise impact, until the facility is fully operational the actual extent of noise disturbance to surrounding properties cannot be thoroughly evaluated.

Should it be decided that subsequent noise disturbances arising from activities on site amounted to a statutory nuisance as defined in Part 3 of the Environmental Protection Act Section 79, a noise abatement notice would be served.

The noise management scheme referred to in condition 9 above should include regular sound checks at noise sensitive boundaries. Findings and observations should be documented and records held on site, these records should be made available to Officers from the authority for inspection should complaints arise. Any extraneous noise identified should be rectified, or operations ceased until such time that a solution could be implemented (for example a damaged exhaust system on a vehicle or whining transmission).

Vehicles should be serviced regularly and maintained and kept in a roadworthy condition.

26/10/2004

**Item** 1.3**Reg. No.** 92004 1058D**Applicant:**

David Wilson Homes  
 Forest Business Park  
 Cartwright Way  
 Bardon Hill  
 Leicestershire  
 LE67 1UB

**Agent:**

David Wilson Homes  
 Forest Business Park  
 Cartwright Way  
 Bardon Hill  
 Leicestershire  
 LE67 1UB

**Proposal:**

**Application for the approval of reserved matters of application 9/1990/0515/O for substitution of house types to plots 122-146 and the addition of plots 186-203 and associated works at Area B Land To The North Of Castle Road Castle Gresley Swadlincote**

**Ward:**

Gresley

**Valid Date:**

18/08/2004

**Site Description**

The site is the easternmost point of the large residential development site off Castle Road, Castle Gresley, the proposed plot changes are on the land directly to the north of the roundabout at the entrance to the development.

**Proposal**

The application proposes a change of house type on plots 122 to 146 and an additional 18 plots, 186 to 203. The previous reserved matters approval on the first phase of development was for 185 plots and the majority of these dwellings are nearing completion. The application proposes changing the house types on this eastern corner of the site to include three-storey apartments which will therefore increase the number of plots in the first phase of development to 203.

The proposed three storey blocks contain two bedroom apartments and are aligned around the northern side of the main entrance to the development facing onto Castle Road and the primary road into the development site. The blocks are sited over 15m from Castle Road separated by a footway/ cycleway and landscaped strip. Parking and bin stores are proposed at the rear of the apartments.

The rest of the dwellings proposed are a mix of detached, semi-detached and terraced three and two storey properties of similar types and layout as constructed on the rest of the phase one development and as previously proposed on this site.

## **Applicants' supporting information**

The Applicant has submitted an amended plan and made the following comments in relation to points raised by the Highway Authority:

- The apartments, plots 122-146, have been linked to give a continuous street scene and set back from Castle Road. Extending the turning head to Road 9 through the apartment scheme would damage this street scene.
- Just over 100% parking has been provided for the apartments, which is within the guidance set out in PPG3.
- The position of the bin store has been amended to the rear of Plot 190, thus giving a distance of 25 metres from the doors to the carriageway.
- The driveways to plots 198 and 199 have been amended to allow easier access on to the driveways from the private drive whilst still maintaining a private drive width of 4.25m, as set out in Derbyshire County Council's Design Guide.
- In respect of the shared footpath cycleway, this is not within the application site and has been previously approved under the original Reserved Matters application for the 185 units.

## **Planning History**

Reserved matters approval for the construction of 185 dwellings was granted in 2002.

## **Responses to Consultations**

The County Highway Authority has stated that the plots are provided with pedestrian access from what appears to be the main entrance in front of the buildings, leading to Castle Road or 'Road 1'. It is entirely inappropriate that any parking associated with these dwellings should take place on either of these roads – Castle Road, which is a classified road forming the main route from Church Gresley to the A444, and also Road 1 (Brunel Way) which is to become the main distributor road into and through this major development site and, as such, would become much busier as the development progresses. This layout with the flats fronting onto these roads will tend to encourage such parking, which is not in the best interests of highway safety.

The flats are each to be provided with a single parking space with no provision for visitor parking nor any proper means of access for delivery or refuse collection vehicles. These flats need to be provided with much better facilities for access by service, delivery and visitors' vehicles. Consideration should be given to providing a service road or drive to the front and looping round the flats.

Driveways to Plots 198 and 199 require 6 metres manoeuvring space in front. The shared cycleway/ footpath should be designed on a much straighter alignment for safety reasons.

## **Responses to Publicity**

None received.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 3  
 Local Plan: Housing Policies 2 and 11  
 Emerging Local Plan: Policies H4 and ENV 21

## Planning Considerations

The main issues central to the determination of this application are the external appearance of the development and impact on the street scene, access provision and highway safety.

## Planning Assessment

The proposed three-storey apartments will wrap around the northern side of the main entrance to the development site and follow the alignment of Castle Road and the principle estate road (Brunel Way). The design and appearance of the apartment blocks are considered acceptable and the overall bulk is broken down by the incorporation of elements with different ridge heights including a two-storey link block and with projecting gables on the front elevation. It is considered that the development will have an acceptable appearance within the street scene; there are already a couple of three storey buildings on the other side of Castle Road from the site. The apartments are set back from Castle Road to the rear of a landscaping strip and are a significant distance from any neighbouring dwellings; the scheme will therefore have no adverse impact on the occupiers of any neighbouring properties in terms of overlooking or loss of privacy. The layout and house types for the remaining plots, 186 to 203, are similar to those already approved on the site and elsewhere within the housing development.

The Highway Authority has raised concerns over the fact that the apartments would appear to have pedestrian front doors facing Castle Road and Brunel Way which they consider may encourage parking on the main roads. However the apartments have main doors on both the front and rear elevations and parking is provided through the estate at the rear of the apartments. It is considered unlikely that occupiers of the dwellings will choose to park on the main roads especially as there is a wide landscaped strip and cycle path between the 'front' of the apartments and the roads. The proposed parking provision for the apartments and other dwellings accords with the Council's parking standards. The Highway Authority suggest that consideration should be given to the provision of a service road or driveway looping around the front of the apartments however it is considered that this would adversely affect the appearance of the development and the street scene by changing the alignment of the dwellings and as the site is relatively level it would create an unattractive hard surface which would be clearly visible from the main road. It is not considered that a reason for refusal of the application could be substantiated on highway grounds.

## Recommendation

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

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

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

2. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

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

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

4. Prior to the first occupation to which it relates, private driveways shall be laid out and constructed and surfaced with a solid bound material at a gradient no steeper than 1 in 15 and shall incorporate measures to prevent the flow of surface water onto the highway.

Reason: In the interests of highway safety.

5. All areas shown for the parking of cars shall be made available prior to the first occupation of the dwelling to which they relate. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), the parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained as such or as may be otherwise approved in writing by the Local Planning Authority.

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

#### Informatives:

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

26/10/2004

Item 1.4

Reg. No. CW92004 0113CW

**Applicant:**  
Donald Ward  
Moir Road  
Woodville  
Swadlincote  
Derbyshire  
DE118DG

**Agent:**  
Derbyshire County Council  
Director Of Environmental Service  
County Offices  
Matlock  
Derbyshire  
DE4 3AG

**Proposal:** The construction of an open waste transfer bay  
(CW9/0904/113) at Donald Ward Moira Road Woodville

**Ward:** Woodville

**Valid Date:** 09/09/2004

Councillor Taylor has requested that this item be put before the Committee

### Site Description

The scrap yard in the centre of Woodville occupies an area of land between Moira Road and Swadlincote.

### Proposal

The proposal is to construct an open bay, 30m by 20m, where waste materials can be imported and sorted and all the materials suitable for recycling identified and put into specific skips for reuse. The area would be enclosed on three sides by a 5m high wall of olive green painted steel sheets.

75000 tonnes per year would be imported to the application site of which one third would be solid industrial/ commercial waste and the remainder other wastes. 100% of metals would be recovered on the site and 80% of all other wastes. There would be an estimated 5000 cubic metres of skip waste residue incapable of further recycling, which would be taken to an authorised landfill site.

### Supporting Information

The salient points relating to planning are as follows:

- A regime is in place to control, monitor and report on dust, fibres and particulates.
- All employees involved in the operations of the Waste Transfer Station are required to ensure that reasonable standards of cleanliness and tidiness are maintained with regard to mud and debris.



- All of the Company's vehicles, plant and equipment are cleaned regularly.
- It is the company's experience at the site, that the problems from rodents and insects are minimal. Should there be any indication of infestation the advice of the local Environmental Health Department would be sought immediately and their recommended action taken
- The site is inspected regularly for litter. During high winds any wastes that are likely to become airborne will not be loaded or unloaded. Sheeting or netting will be applied as necessary to retain stored material.
- It is not envisaged that any wastes likely to give rise to offensive odours will be received at the site. Wastes are processed as quickly as possible to avoid onset of rot or putrefaction on site. Nevertheless the Company will remain alert to this potential nuisance and carry out simple olfactory monitoring around the boundaries of the site, particularly the boundary adjacent to Swadlincote Road.
- To minimise noise nuisance the following precautions are taken:
  1. Operational hours are limited to 7.00-18.00 Mon to Fri and 7.00-13.00 Sat. There will be no working Saturday afternoons or Sundays
  2. Vehicles and plant are silenced according to manufacturer specification
  3. The 5m steel screen would provide a good level of noise screening
  4. The boundary fence also provides a good level of noise screening
  5. Care is taken to minimise the drop heights of materials when loading and unloading
  6. Any complaints are investigated and action taken to reduce or overcome the problem wherever practical

### **Planning History**

In October 2003 the company applied for a large building to house the waste transfer station. Due to concerns raised by the District and County Council for the loss of amenity, the application was withdrawn.

This Council's consultation response to the previous application was as follows:

"Residents are already adversely affected by the activities of the scrap yard and to allow the erection of the proposed building with the operating hours proposed increases the likelihood that residents would be impacted upon to a greater extent. In addition, such a large building constructed in this elevated position would have an adverse effect on the Swadlincote Road street scene: an important gateway site to the Swadlincote urban area. The use of this area to site the proposed large industrial building is therefore inappropriate for the locality and contrary to Structure Plan Economy Policy 2 and Economy Policy 4 and Local Plan: Employment Policy 1, Employment Policy 8 and emerging Local Plan: Policy ENV15."

### **Responses to Consultations**

The Council's environmental health officer makes the following comments:

#### Dust

The department has received complaints regarding dust emanating from the site in the past and indeed currently. The complaints relate mainly to dust from the waste transfer area, which is

situated close to residential properties along the Swadlincote Road edge of the site. The re-siting of the transfer station would help reduce the effect of the dust on neighbouring properties. I recommend that the proposals made in the report to control dust are adhered to and records made of the monitoring results.

### Odour

Complaints regarding odour have increased recently due to the types of waste being received and the length of time it is stored in the waste transfer bay. The Environment Agency Licence restricts the types of waste that can be received, although visits to the site have shown that putrescible and food waste is accepted. The complaints relating to odour have been described as 'rotting vegetables' and 'cabbage'. This suggests therefore that either waste that is being accepted is already putrescent or it is allowed to remain in the bay long enough for it to rot. Either way, the odour from the waste is giving rise to complaints.

### Rats

Contrary to the detail in the application, the site has seen a dramatic increase in the rat population in the last year. The rats are attracted to the site by the putrescible waste that is accepted and stored on site.

In order to reduce the rat population and control the odour emanating from the site, I recommend that the following condition is attached.

- Waste shall not be stored in the waste transfer bay over night, the waste transfer bay shall be emptied of waste at the end of each working day.

### Noise

The regular and steady flow of complaints to the department regarding noise from the site suggests that residents are still affected by the noise from the site due to the site's proximity to their homes.

I therefore recommend that a condition is attached which confirms the working hours as requested in the application:

Monday to Friday:	7.00 to 18.00
Saturday:	7.00 to 13.00
Sunday and P.H.	no working

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Economy Policy 2 and 4  
 Local Plan: Employment Policy 1 and 8  
 Emerging Local Plan: Policy ENV15.

## Planning Considerations

The main issues central to the determination of this application are noise and odour pollution to local residents.

## Planning Assessment

The building previously proposed to enclose the waste transfer facility has been deleted from the scheme, thus removing the main objection this Council had to it.

The environmental health officer reports that noise and odour are a continual problem and suggests appropriate conditions designed to regulate these adverse effects.

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

That Derbyshire County Council be advised that this Council recommends that the planning application be **GRANTED** subject to the following conditions:

1. Waste shall not be stored in the waste transfer bay over night, the waste transfer bay shall be emptied of waste at the end of each working day.
2. The working hours shall be as requested as follows:  
Monday to Friday 7:00 to 18:00  
Saturday 7:00 to 13:00  
Sunday and P.H. no working

**Item**            **1.5**

**Reg. No.**        **92004 0940F**

**Applicant:**  
Radleigh Homes  
Riverside Court  
Pride Park  
Derby  
DE24 8JN

**Agent:**  
Radleigh Homes  
Riverside Court  
Pride Park  
Derby  
DE24 8JN

**Proposal:**        **The construction of underground foul water pump station  
adjacent to Butt Farm 163 High Street Woodville Swadlincote**

**Ward:**            **Woodville**

**Valid Date:**     **23/07/2004**

### **Supplementary Report**

Members will recall visiting this site at the last meeting of 5 October 2004. A decision was deferred with an instruction for officers to invite the applicant company to examine other possible alternative solutions for the foul drainage of the site.

At the time of writing no response had been received. However, if available any response will be reported at the Committee. (The previous report is attached at Annex B).

26/10/2004

**Item** 2.1**Reg. No.** 92004 1167F**Applicant:**  
Pleasant Inns Ltd  
C/O Agent**Agent:**  
N Astle  
24 The City  
Woodville  
Swadlincote  
Derbyshire  
DE11 7DH**Proposal:** **The erection of five residential units with associated car parking at 1 And 2 The Gatehouse And Part Of Carpark Mount Pleasant Inn Mount Pleasant Road Castle Gresley****Ward:****Valid Date:** 06/09/2004

Councillor Southern has requested that this application is reported to Committee.

**Site Description**

The site is located between the A444 to the east and the Mount Pleasant pub and associated beer garden/ pub car park, which front Mount Pleasant Road, to the south and west. A Public Footpath runs alongside the northern boundary of the site between the A444 and Mount Pleasant Road. A close-boarded fence forms the boundary between the site and the A444 and the site and the pub car park/ garden.

There is a pair of semi-detached dwellings, in a poor state of repair, on the site. There is a vehicular access from Mount Pleasant Road to the dwellings.

**Proposal**

The application proposes the construction of five dwellings, a pair of semi-detached houses and a terrace of three houses. The dwellings are all two-storey two bedroom properties. The dwellings would front onto a footpath, which would be created adjacent to the grass verge alongside the A444, and rear garden areas would be located between the dwellings and the pub building/ car park. The application site includes 10 car parking spaces and the pub car park is shown with 30 parking spaces.

**Planning History**

Planning permission was refused in January of this year for the erection of 6 three-storey dwellings on the site, the reasons for refusal were that residential development of the site is unacceptable in principle in accordance with relevant national and local planning policies, the

development would result in increased use of a substandard access and increased vehicular use of a public right of way to the detriment of highway safety, the layout provided an inadequate level of amenity for the occupiers of the dwellings and the siting of the dwellings would be prominent in the streetscene and landscape and detrimental to the character of the area.

### **Applicants supporting information**

The current planning application is for a scheme which is a redesign of a previous submission which was refused in January 2004. The previous scheme was for six dwellings which has now been reduced to five.

The previous scheme was refused on a number of counts and significant changes have been made to overcome the identified deficiencies.

One factor which was not stressed at the time of the previous application was that the site is previously developed land. In addition to two dwellings which remain standing, there were several other cottages within the curtilage of the Mount Pleasant Public house which have already been demolished. The car parking area now alongside the Mount Pleasant Public House was formerly occupied by a row of cottages fronting the former main road which were an integral part of the settlement of Mount Pleasant, which flanked both sides of the road.

The Parish of Castle Gresley consisted of three distinct entities, with the settlement from which it took its name at the bottom of the hill surrounding the castle (Castle Knob), High Cross Bank being the largest residential area on the flank of the hill and then Mount Pleasant at the top, with the vicarage taking pride of place.

Therefore, to redevelop this previously developed site is in keeping with the established settlement pattern of the area.

The settlement of Mount Pleasant also has a bus stop with the half hourly number 8 bus service connecting it with both Swadlincote and Burton with connections to the rail network at Burton upon Trent without a change of bus. Mount Pleasant is therefore a sustainable community with local shops, g p surgery and pharmacy within walking distance, together with primary education facilities.

The recent growth of the settlement has reinforced these facilities and it is considered that the weight given to strategy in the previous refusal gave no recognition to the fact that this was a previously developed site. The approval of the new dwelling adjoining the application site in recent years was as a result of that site having been previously developed. It is inconsistent not to treat this adjoining site in the same manner.

Changes have been made to the proposal since the last application which have resolved a number of objections. The following points have been addressed:

1. The previous application was refused on loss of car parking for the public house. It has now been demonstrated to the satisfaction of the Local Highway Authority that there is adequate car parking for the public house and the proposed dwellings.
2. The Highway Authority has also accepted that the existing access which serves the remaining two dwellings on the site can continue to be used for two out of the five dwellings proposed.

3. A further reason for refusal of the previous application was the inadequate spacing between the proposed dwellings and the public house. The reduction in the number of dwellings has enabled the proposal to be redesigned to provide in excess of the standard face to face distance.
4. Garden sizes have also now been increased to comply with standards.
5. The redesign has also resulted in the reduction of the height of the proposed dwellings. They are now lower than the existing dwellings on the site.

The appearance of the development from the A444 has been given careful consideration, especially with reference to the prominence of the two existing dwellings which are higher than their proposed replacements. From the Overseal direction, a large tree provides considerable screening both in summer and winter. From the other direction, the landscaping carried out in association with the construction of the by-pass has also created significant screening and still has considerable growth to come. The boundary treatment of the site will also contribute to visual containment of the development. It is considered that the proposed development will have no more affect upon the street scene than the existing dwellings.

Photographs have been submitted showing the site and existing dwellings and an impression of the appearance of the proposed dwellings. These illustrate that the visual effect of the proposal is acceptable because it does no more than reflect what is presently there.

In conclusion, the proposal has been modified to overcome the earlier problems identified. On policy grounds, the site is stressed to be a redevelopment of previously existing dwellings and whilst the settlement of Mount Pleasant is not identified as a specific settlement for development in the Local Plan, it is a sustainable location due to the existence of reasonable public transport facilities and its close proximity to the community facilities of the adjacent urban area of Castle Gresley.

### **Responses to Consultations**

The County Highway Authority has no objections to the proposal.

### **Responses to Publicity**

8 letters of representation have been received raising the following issues:-

- Concern over whether the site boundaries are accurate.
- Concern over vehicular access and parking especially as the pub car park is often full creating parking difficulties and congestion on Mount Pleasant Road. Residents experience difficulties joining and leaving Mount Pleasant Road from private drives. Access to and from the dwellings will be dangerous.
- Concerns that the pub car parking layout and number of spaces proposed could not be achieved in reality and that it would be difficult to ensure that the spaces provided for the dwellings would be kept exclusively for the occupiers in perpetuity.
- Concern over who would take responsibility for maintenance of Pitt Lane.
- The houses would provide cramped accommodation and would be located between a noisy road and a busy, noisy pub.
- The existing pair of houses should be restored rather than replaced, as they are part and parcel of the character and ambiance of the area.

- The modern design of the houses is not in character with the existing houses in the village.
- The proposed public pathway will be too narrow.
- Concern over increase in noise disturbance caused by the demolition of the existing property together with additional dust and mud and an increase in traffic from delivery of building materials.
- Vehicle speeds on Mount Pleasant Road and the by-pass are a concern as the area is busy and crossing the road is unsafe.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policies 4 and 8 and Environment Policy 1

Emerging Local Plan: Policies H1 and ENV 3

### **Planning Considerations**

The main issues central to the determination of this application are the principle of residential development in this location, access and parking arrangements for the site, the design and appearance of the dwellings and their impact in the landscape.

### **Planning Assessment**

The application site is located outside the Swadlincote Urban Area where new residential development is unacceptable in principle in line with the provisions of Housing Policy 4 of the adopted Local Plan and Policy H1 of the Emerging Local Plan. The only type of residential development that would be acceptable on this site in accordance with local plan policies would be the replacement of the existing dwellings with two new dwellings of equivalent form and bulk on substantially the same site as the old. The scheme proposes the development of three additional residential units which is clearly contrary to the abovementioned planning policies. The fact that there used to be dwellings fronting Mount Pleasant Road is not a relevant consideration as no trace of these dwellings now exists and the site is now the car park of the Public House.

The County Highway Authority does not object to this amended proposal as only two dwellings are to be served from the lane which serves the existing dwellings and is shared with the public right of way, the parking spaces for the other three dwellings would be accessed via the pub car park. The Applicant has provided two car parking spaces per dwelling in accordance with standards and 30 car parking spaces for the Public House.

The proposed dwellings are two-storey properties of an acceptable design and appearance. Previously the Applicant proposed three-storey dwellings and it was considered that they would be prominent in the landscape due to the fact that the site is between 1 and 2 metres above the level of the A444. Although the dwellings have been reduced in height to below the height of the existing two dwellings it is considered that five dwellings fronting on to the A444 will be very prominent in the landscape and from the A444, it is considered that the development will undermine the character and quality of the landscape within this countryside location. As stated



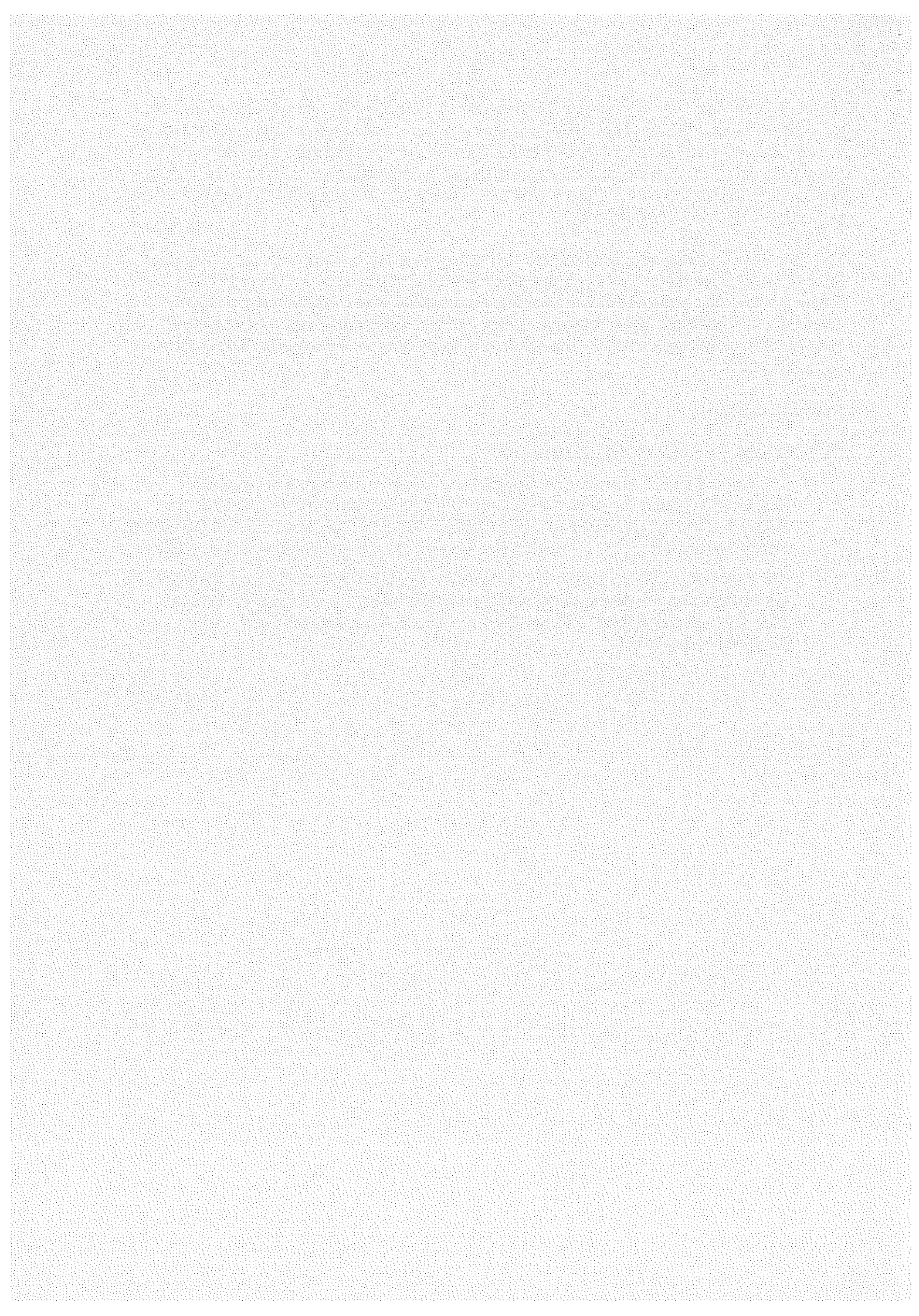
above there are currently only two dwellings on the site and they face the lane. Many dwellings which front Mount Pleasant Road have large side and rear garden areas and the tract of land between the A444 and Mount Pleasant Road has always been protected from development by being excluded from a defined development boundary in the Local Plan. To allow this current development proposal would therefore undermine the case for maintaining a consistent approach to development on the A444 frontage.

The proposed dwellings have been sited further from the pub than in the previous scheme and the proposal now complies with the Space About Dwellings Standards outlined in the Supplementary Planning Guidance on Housing Design and Layout. However the proposed development is unacceptable in principle in line with the relevant planning policies and the erection of five dwellings in this location will have an unacceptable impact on the character of the countryside.

### **Recommendation**

**REFUSE** permission for the following reasons:

1. The application site is outside the Swadlincote Urban Area where new residential development is unacceptable in principle and contrary to the provisions of Housing Policy 5 of the Structure Plan, Housing Policies 4 and 8 of the adopted South Derbyshire Local Plan and Policies H1 of the Revised Deposit Draft South Derbyshire Local Plan.
2. The proposed dwellings by virtue of their siting would be prominent in the landscape and street scene and the development would be detrimental to the character of the area contrary to the provisions of Policy ENV 21 of the Revised Deposit Draft South Derbyshire Local Plan.



## APPEAL DISMISSED

### Appeal by Horticulture Limited

The change of use to wholesale and retail sales at Woodgrow Horticulture Limited Burton Road Findern Derby (9/2003/1361)

The application was refused permission for the following reason(s):

- 1. Approval of the application would set a precedent for the expansion of retail sales on the site where parking and manoeuvring space is limited. This would result in vehicles parking on the classified Burton Road causing inconvenience and a potential hazard for other road users contrary to Transport Policy 19 of the adopted Derby and Derbyshire Joint Structure Plan and Transport Policy 6 of the adopted South Derbyshire Local Plan. This policy is to be replaced by Policy T9 of the emerging replacement South Derbyshire Local Plan. All these policies require the provision of adequate parking and manoeuvring space within the application site.*
- 2. In the countryside, the need for a particular use has to be established before permission can be granted as required by General Development Strategy Policy 4 of the Adopted Structure Plan and Environment Policy 1 of the adopted South Derbyshire Local Plan together with Policy ENV 7 of the emerging replacement South Derbyshire Local Plan. This site has had the benefit of planning permission for wholesale distribution of horticultural products on the basis permission granted for that particular use on the basis that traffic generation would be minimal and the use low key in the countryside. The expansion into retail sales brings the development into conflict with the above policies as the use of the site intensifies and through the attraction of more people and traffic and the impact of the use on the character of the area increases. The use is not essential in this location and whilst the applicants have offered the opinion that the extent of retail sales would be approximately 30% of sales, this could not be controlled through the imposition of conditions. For this reason, the proposal would be contrary to the above policies.*

The inspectorate considered the main issues to be:

- The effect of the development on the character and appearance of the area.
- The impact on highway safety.

The Inspector acknowledged that both parties accepted the 1992 permission did not authorise the sale of goods from the site to the general public and that the appellant now wished to continue catering for trade customers and serve members of the public in an unrestricted manner. The Inspector considered the appeal on this basis. He noted that the appellant had no intention to diversify into wider retail sales but could not give this significant weight, as an unrestricted permission would afford the local planning authority little control over future activities.

The appeal site lies in the countryside screened to the north and west by hedging but clearly visible to the east from Burton Road which is elevated at this point. There are few buildings or structures on the application site so bulk products for sale are stored in the open.

The inspector noted the Council's concerns regarding the effect of the development on the character and appearance of the area and that goods now being sold were more apparent in the landscape. He considered the visual impact of products that could be stored as a consequence of this development were of a similar character to those currently on site and would not materially affect the appearance or character of the locality.

The inspector noted the Council's concern relating to the visual impact of parked cars and the appellant's contention that there are currently few customers present at any one time but considered that this could change with unrestricted retail use. He concluded that a significant number of parked cars on the land would appear as an urban feature intruding into this part of the countryside and consequently undermine the rural nature of this location, unacceptably harming the character of the area.

The inspector noted that although there may be a local need for the business there is nothing to demonstrate why this need has to be met in the countryside. Even if this need were to be shown due to the fact that unrestricted permission is sought there would be no means of ensuring the site continued to address that need in future.

The inspector also noted the council's concerns over the advertisements at the application site but considered these could be addressed under the relevant regulations.

The Inspector concluded that the development would adversely affect the character and appearance of the area.

With regard to the highway implications of the appeal proposal the Inspector considered that planning permission for unrestricted retail sales could result in an increase in customers and associated traffic flows. The resulting difficulty in ensuring adequate parking might then lead to vehicles parking on the slip road or Burton Road causing an obstruction detrimental to highway safety.

In consideration of the above reasons the appeal was dismissed.

## APPEAL DISMISSED

### Appeal by Mr Hosking

The variation of condition 1 of 9/0298/0938/F to permit the continued siting of a static bungalow at The Paddocks Highfield Farm Heage Lane Etwall Derby (9/2003/0069)

The application was refused permission for the following reason(s):

*The site lies in the countryside where the policies of the approved Derby & Derbyshire Structure Plan General Development Strategy Policy 4 and Housing Policy 6 together with adopted South Derbyshire Local Plan Environment Policy 1 and Housing Policies 8 and 12 seek to ensure that housing development is limited to that which is essential to the needs of an established rural business amongst other criteria. The submitted agricultural appraisal indicates that whilst there is an established need for two full time workers to be present on site, a third dwelling unit is not essential to the needs of the business. Accordingly the development would be contrary to the above policies and represent an unjustified intrusion into the countryside to the detriment of the character of the area.*

The Inspector considered the main issue to be:

- The effect of the continued siting of the dwelling on the character and appearance of the appeal site and its surroundings and whether there is an overriding need for its retention.

The Inspector noted the presence of the three dwellings on site; “The Paddocks”, a long established two-storey house occupied by the appellant; “The Pastures”, a newly constructed bungalow occupied by the farm’s technical manager; and “The Croft”, the subject of the appeal occupied by the appellant’s daughter and son-in-law, who acts as assistant farm manager.

The Inspector commented that although not widely visible from the public domain the appeal dwelling represented “a visually intrusive built feature in the open rural landscape of the farm and its surroundings” and that its continued presence on any basis would serve to “retain the urbanising effect it has on this area of attractive countryside”.

The Inspector noted the history of the appeal property that was granted temporary permission in 1995 and renewed in 1998 in order to establish the financial and functional justification for a second dwelling. This need was established and a second dwelling permitted with a condition requiring the removal of the appeal dwelling by 31 August 2003. He also noted the Council’s opposition to the appeal dwelling’s retention on the grounds of insufficient functional need for a third dwelling.

The Inspector noted the contents of the agricultural appraisal prepared by David Haston on behalf of the appellant which concludes that the agricultural business is sound and viable and passes the financial test set out in PPG7 Annex I and that a maximum of two skilled workers should live close to the poultry sheds providing the permanent on-site requirements of both the poultry and sheep enterprises. The two permanent dwellings would meet these requirements.

The Inspector noted the comments of the appellant regarding the way in which the farm has now diversified and is providing specialist education and training facilities for young people with different special needs and is formally contracted by the Youth Offending Service and Derby City Council Educational Needs Support Service to provide training and supervision for young people with educational problems. He acknowledged that the appellant feels the need for a third dwelling has arisen largely as a result of this diversification.

The Inspector commented that this type of farm diversification, which the Council supports, is in line with Government policies for rural areas and is meeting an important educational and social need, however the Derbyshire Structure Plan Housing Policy 6 only allows for housing development away from settlements where it can be shown that the location is essential and Local Plan Housing Policy 8 allows for housing development in the countryside only where it is necessary.

The Inspector acknowledged the additional management work required and the stresses resulting from the educational activities on the farm but concluded that a further management role did not necessarily require a permanent on-site presence and that the security needs of the site could be met by the occupiers of the two permanent dwellings.

The Inspector concluded that the continued siting of the dwelling has an adverse effect on the character and appearance of the appeal site and its surroundings and that there is no overriding need for its retention.

In consideration of the above the appeal was dismissed.

## APPEAL ALLOWED

### Appeal by Mrs Earp

The erection of a dwelling on Land to the rear of 216 218 High Street Newhall Swadlincote (9/2003/1211)

The application was refused permission for the following reason(s):

*The site is of insufficient size to accommodate the proposed development in accord with the Council's current Supplementary Planning Guidance and therefore contrary to Housing Policy 11 of the Adopted Local Plan. The development would also be detrimental to the character of the street by taking up a valuable gap in an otherwise densely developed frontage contrary to Housing Policy 4 of the adopted Local Plan and Policy ENV8 of the Deposit Local Plan.*

The Inspector considered the main issues to be the effect of the development on:

- the character and appearance of the locality; and
- the living conditions of the future occupiers of the proposed dwelling, having particular regard to the standard of amenity space provision.

The Inspector acknowledged the Council's concern that the development would result in the loss of a highly visible break in an otherwise built-up frontage and that Local Plan Housing Policy 4 and the Revised Local Plan Policy ENV8 seek to avoid the development of open gaps which make a valuable contribution to the character of the local area. However, the Inspector felt that the site added little to the overall appearance and character of the immediate area and concluded that the proposal complied with policy and caused no significant harm to the character and appearance of the locality.

With regard to the Council's concern regarding the level of amenity for the occupiers of the new dwelling and the aspect of the habitable room windows, the Inspector acknowledged that main windows to a dwelling should "enjoy a reasonable outlook". However, he noted that the only ground floor window directly facing onto the gable end of the two storey coach house/store along one side of the boundary to the rear of the site was the kitchen window and that the main living room window of the proposed dwelling would face onto the garden of the adjoining dwelling. He considered the size of the garden for the proposed dwelling to be adequate in relation to its size and that the aspect would enjoy a good level of daylight and morning sunlight. The Inspector concluded that the proposed development would have an adequate standard of amenity and would not harm the living conditions of the future occupiers of the proposed dwelling.

The Inspector was in agreement with the main parties that the distance from other properties in High Street and the level of screening to the rear boundary would ensure minimal impact on the privacy of the occupiers of the adjoining dwellings and that the garden area retained for 218 High Street is in proportion to the size of the dwelling and would cause no adverse highway effects.

In consideration of the above matters the Inspector concluded that the appeal be allowed subject to the standard time period condition and conditions relating to approval of materials and access details.

## APPEAL ALLOWED

Appeal by Mrs Isham

The erection of a dwelling Land Between 22 And 26 Hill Street Newhall Swadlincote  
(9/2003/1281)

The application was refused permission for the following reason(s):

*The site is of insufficient size to accommodate the proposed development in accord with the Councils current Supplementary Planning Guidance and therefore contrary to Housing Policy 11 of the Adopted Local Plan. Also, an important characteristic of the street is its relatively loose knit, ad-hoc development pattern consisting of a mix of built and open frontages. Increasing the roadside density by filling this valuable gap would unacceptably diminish the street's character and increase vehicular activity conflicting with its perceived function as a quiet pedestrian through route contrary to Housing Policy 4 of the adopted Local Plan and Policy ENV 8 of the Deposit Local Plan.*

The Inspector considered the main issues to be:

- The Council's adoption of Supplementary Planning Guidance "Housing Design and Layout" in May 2004 following the refusal of the appeal application which contains no specific standards for the provision of amenity space. The Council conceded at the hearing that the provision of amenity space in relation to the living conditions of future occupiers should no longer be considered as an issue but that the provision of space around the proposed dwelling is relevant to the impact of the development on the character of the area.
- With regard to the above, the main issue is whether the proposed dwelling would be an over-intensive development of a small plot and thereby seriously harmful to the character of the area.

The Inspector noted that the appeal site is not in a conservation area and has no special environmental designation in the development plan. Indeed, he felt the site to be overgrown with no significant features warranting its protection from development under Housing Policy 4 of the Local Plan which supports development within urban fringes providing that they are of suitable scale and character and do not involve the development of areas which make a valuable contribution to the character or environmental quality of the area and Policies ENV8 and ENV21 which protect particular quality land from development and encourage good design. The Inspector also noted that the proposal is within an established residential area within the urban confines of Newhall.

The Inspector noted the ad-hoc, loose-knit pattern of development within the area and concluded that the erection of a small dwelling with the amenity area confined to the street frontage would not appear as an over-intensive development or be visually harmful. He added that the proposal would make efficient use of land for housing within an urban area without compromising the quality of the environment in line with PPG3 and the Council's Supplementary Planning Guidance which seeks to ensure higher housing densities. In consideration of the above the Inspector could find no conflict with the requirements of Local Plan policies regarding the character of the surrounding area.

The Inspector considered there to be no unacceptable loss of privacy to the occupiers of No 22 and 26 Hill Street and that with regard to concerns about highway safety and congestion noted that off street parking would be provided and no objections had been received from the highway authority. Therefore, the Inspector could find no reason to reject the proposal on these grounds.



In consideration of the above the Inspector allowed the appeal subject to conditions regarding materials, boundary treatment, parking and a restriction of permitted development rights for the insertion of windows.



## ANNEX A

14/09/2004

**Item** 1.5**Reg. No.** 92004 0796M**Applicant:**

Dove Valley Park Ltd  
 3rd Floor Royal Buildings  
 Victoria Street  
 Derby  
 DE1 1ES

**Agent:**

T S Design Group  
 58 Portswood Road  
 Southampton  
 Hampshire  
 SO17 2FW

**Proposal:** Amendments to perimeter planting and bunding scheme previously approved under planning permission 9/1993/0445/D at the perimeter landscaping at Dove Valley Park Foston

**Ward:** North West**Valid Date:** 21/06/2004**Site Description**

The site comprises a strip of land adjacent to Woodyard Lane, Heath Top and extends south from Heath Top towards a turkey farm. The total site area is 2.9 hectares. The majority of the land is farmland with the exception of a pond on the north boundary and some hedgerow on the west boundary along Woodyard Lane. There is one dwelling on the west side of Woodyard Lane and several dwellings on the north side of Heath Top. The majority of the dwellings lie further north at the south end of Boggy Lane. In addition there is a dwelling off Dark Lane again well north of the site boundary. The site is generally flat with a slight slope to the south from Heath Top.

**Proposal**

The proposal involves the construction of a mound of varying heights that would extend along the northeast, north and northwest boundary of land in the control of the applicant. That is land that lies outside the land with permission for B1, B2 and B8 use. The maximum height of the mounds would be 4.65 metres at its widest point and between 2.5 and 3.5 metres high where the mounding narrows. The mound would be set behind existing boundary features and the pond on the north boundary would be retained as a part of the scheme. A typical cross section of mounding has been submitted but not details of the whole mound construction. A tree and shrub-planting schedule containing native species is proposed on the mounding once it is formed.

**Applicants' supporting information**

The original landscaping was required by condition of earlier consents and this application seeks to meet the original objective of providing a long-term screen of the site from the north.

The bund would be formed exclusively from material excavated from the continuing development of the Park and it is not envisaged that any imported material would be required.

The bunds would be formed as construction works are undertaken on the land designated for employment use. The proposal is that as the mound is formed, the landscaping proposals on the submitted drawings would be implemented as the mounding extends around the land in the ownership of the applicants.

### **Planning History**

The development of Dove Valley Park (DVP) dates back to its allocation as an employment site in the draft South Derbyshire Local Plan in the early 1990's. This arose from Toyota's decision to locate at Burnaston and large allocations for employment use were made at both DVP and Hilton.

The then draft Local Plan envisaged the eventual expansion of DVP to the north of its present northern boundary into the area that would be enclosed by this bund. In accordance with this draft policy, the outline permission for DVP included a condition requiring the construction of advance landscaping along the north of the extended area (9/1990/0155/O refers). Permission for mounding/landscaping on the western and northern edges of this extended area was granted in 1993 (9/1993/0445 refers) and a start was made on implementing the permission.

Subsequently the lower case text of the Local Plan was amended and reference to the extension of DVP was removed. Accordingly the grounds for following up on the implementation of the bund were removed as the company would have been able to argue that there was no need for it as it performed no function in terms of what was likely to obtain permission. Accordingly the Authority has subsequently sought to establish screening along the north boundary of the land with planning permission.

The development of the DVP site has resulted in large amounts of spoil, mainly low quality topsoil, being generated and subsequently stored on the site. This is mainly stored on the area where there is permission for the erection of a 46,500sqm. (500,000sq.ft.) warehouse building. (9/2001/0884 refers). Permission exists for the erection of a further building on another plot and there is outline planning permission for the development of two further plots on the site.

Permission was also granted in 2001 for the formation of a similar bund adjacent to Woodyard Lane, on land within the area with planning permission.

### **Responses to Consultations**

Hatton Parish Council has no objection. *Hatton Parish Council is consulted on all DVP applications at its request.*

Church Broughton Parish Council strongly objects to the development for the following reasons:

- a) The limit of permitted industrial development is located immediately to the north of the Starcross Foods building in a straight line. Allowing this would allow Phase II of DVP (Dove Valley Park) to proceed. The Authority should be aware of strong local opposition

- b) to the extension of DVP following a public meeting attended by the Head of Planning. The Parish Council states that accepting this proposal would allow the expansion of the site that does not form part of the outline plan.
- c) The bunds would obstruct three public footpaths therefore the application form is wrong at Question 10d.
- d) The landscaping scheme agreed for Starcross foods has not been implemented.

Foston and Scropton Parish Council welcomes the improvement in the proposed landscaping, however, it seeks reassurance that the tree planting will be carried out as soon as possible and certainly within the next two years.

The Highways Agency has no objection, as the proposal is unlikely to affect traffic on the trunk road.

### **Responses to Publicity**

10 letters have been received objecting to the development for the following reasons:

- a) The limit of permitted industrial development is located immediately to the north of the Starcross Foods building and to agree to this proposal would extend the DVP boundary to what has been spoken of as Phase II. The Authority should be aware of strong local opposition to the extension of DVP following a public meeting attended by the Head of Planning. DVP is not full and no more land should be allowed until it is.
- b) The bunds would obstruct three public footpaths therefore the application form is wrong at Question 10d.
- c) The landscaping scheme agreed for Starcross foods has not been implemented. The 20 – 30 yards of planting have not been implemented; this was part of the supporting information for DVP when it was first granted permission.
- d) There is too much traffic in the area both from DVP and developments off Woodyard Lane and there is an increased risk of road traffic accidents. The quality of life of local residents is and would be adversely affected especially those living on Heath Top.
- e) The publicity for the application was inadequate and individual houses should have been notified of the application, albeit that site notices were posted.
- f) There would be a significant loss in value of the property.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 3, 4; Economy Policies 1, 2 & 6.

Local Plan: Employment Policies 2 & 6; Environment Policy 1

Emerging Local Plan: Policies ENV 3 & 7.

### **Planning Considerations**

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

- Conformity with the Development Plan
- The implications for the future development of the land as identified by the Parish Council and objectors.

- The impact on the character and appearance of the area.
- The impact on public footpaths of the proposals.

### **Planning Assessment**

The Development Plan requires amongst other requirements that major development is landscaped and designed such that its impact on the character and appearance of the area is minimised. Members will be aware that the District has been successful at attracting inward investment with some notable firms deciding to locate in South Derbyshire. There exists in the Structure Plan and the adopted Local Plan, a policy that allows for land outside the major allocations to be developed if it can be demonstrated that there is no viable alternative location to accommodate large users on allocated sites. DVP and its surroundings has already been considered for such development, albeit that your officers are directing firms to sites with established allocations. Nevertheless, it could be seen to be prudent to ensure that proper 'advanced landscaping' is in place to meet such an eventuality at DVP.

If development were proposed on the land to be enclosed on this site by this proposal, then it would be the subject of an application in its own right. If there were no justification for the expansion of the site, then the Local Planning Authority would be in a position to refuse planning permission based on existing well-established policies, notwithstanding the presence of the mound.

However, if a valid case were made that allowed DVP to expand to the north, the properties on Heath Top and to a lesser extent on Woodyard Lane would be left exposed to that development without the screening that could be afforded by the construction of the bund and the implementation of landscaping.

The site lies within the landscape that is influenced by the rivers Trent and Dove. The land hereabouts starts to rise above the low lying river valleys and forms a transition between the valleys and the higher ground that rises into the Peak District to the north. DVP lies on top of a low ridge that drops south towards the Dove valley and to the north towards Church Broughton. DVP lies on the site of a WW II airfield evidence of which is still apparent around the site. The implication of this is that the site is relatively flat and any mounding is likely to appear as an alien feature if not integrated into the surrounding area. This would be most visible along Heath Top.

However, permission is in place for the erection of a mound in this vicinity. The applicant could construct this mound without further reference to the Authority. The issue at stake then with this application is only the height of the mound.

The main consideration in terms of development plan policies is whether the additional bund height is such that refusal of the permission is justified on the grounds of its visual intrusion into the countryside hereabouts. The increase in the overall height of the bund would be mitigated by the fact that its apex would be set further from the dwellings particularly those on Heath Top. Conditions can be attached requiring the submission of a phasing of the construction of the mound and the implementation of the landscaping scheme in the planting season immediately following the completion of the phase under construction.

The Parish Council and objectors have correctly identified that the proposals would have an impact on the line of public footpaths in the area. It is not considered that it would be necessary to divert any of these paths but a condition is recommended to require the submission of details

of the mound formation along the whole length of the bunds that are proposed including how the areas on the line of the footpaths would be treated. This would ensure that the footpaths are not prejudiced by the bund proposals.

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 five years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. Before the development is commenced, detailed drawings indicating the shape of the mounds to a minimum scale of 1:200 shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include provision for the maintenance of the line of Public Footpaths that pass through the site and for the retention, without disturbance, of the pond and trees at the northwest corner of the site. The bunds shall then be constructed in accordance with the approved plans in accordance with a phasing plan that shall also have received the prior written approval of the Local Planning Authority.

In the interests of the visual amenity of the occupiers of adjacent dwellings and to ensure that the line of public footpaths are maintained available as well as the pond that is an important feature in the locality.

3. The bunds hereby permitted shall be constructed solely from material arising from the development of Dove Valley Park the extent of which is identified on plans that accompanied planning permission 9/1990/0155/O as amended by planning permission 9/1995/0170/R. No material shall be imported to form the bunds unless planning permission has been sought and obtained in response to an application made in that regard.

In order to prevent material being imported to the site without proper consideration of the impact of that importation and the application hereby permitted states that no material is to be imported to the site.

4. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out in accordance with the programme agreed with the Local Planning Authority.

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

5. No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out and maintained in accordance with the approved schedule.

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

**Informatives:**

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or

extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed. Further to Condition 3 above any application to import material into the site would be made to Derbyshire County Council as Waste Disposal Authority for Derbyshire.



**ANNEX B**

14/09/2004

**Item** 1.10**Reg. No.** 92004 0940F**Applicant:**

Radleigh Homes  
 Riverside Court  
 Pride Park  
 Derby  
 DE24 8JN

**Agent:**

Radleigh Homes  
 Riverside Court  
 Pride Park  
 Derby  
 DE24 8JN

**Proposal:** **The construction of underground foul water pump station adjacent to Butt Farm 163 High Street Woodville Swadlincote**

**Ward:** **Woodville**

**Valid Date:** **23/07/2004**

**Site Description**

This cleared sloping site, previously occupied by Butt Farm, is on the north side of High Street almost opposite Butt Lane and is set within a residential area of mainly Victorian properties. To the north of the site is open countryside.

**Proposal**

It is proposed to install a private foul sewer pumping station outside the northeast edge of the site. The facility would be submerged below ground. Vehicular access would be provided with a turning facility for maintenance purposes.

**Applicants' supporting information**

The applicant has submitted the following supporting statement:

1. Severn Trent Water Ltd confirmed in the network development response that a gravity outfall for this site was not achievable and that pumping would be required to the sewer in Ashby Road.
2. The fall across the site dictated that the pumping station would need to be located to the Northern boundary of the site.
3. To meet Severn Trent Water Ltd requirements for separation of such facilities from domestic properties it was at the earliest of stages determined that this required the pumping station to be located in the retained agricultural land on the Northern boundary of the site.
4. The precise location was further determined by the need for vehicular access to the Station and utilises the route of the existing public footpath through open space to provide this requirement

## **Planning History**

Reserved matters approval for the erection of twenty-five dwellings was granted in December 2003 following outline permission granted in January 2001, which had been renewed from 1998.

## **Responses to Consultations**

The environmental health officer raises no objections to the proposal.

Woodville Parish Council comments that it realises the importance of the proposal but questions why it is to be located outside the development site. It is also concerned about environmental problems should the pump fail.

## **Structure/Local Plan Policies**

The relevant policies are:

Local Plan: Environment Policy 1.  
Emerging Local Plan: ENV 7.

## **Planning Considerations**

The main issues central to the determination of this application is the siting of the development beyond the urban area development boundary as set out in the Local Plan.

## **Planning Assessment**

The pump itself would be sited within the urban area development boundary and therefore would be acceptable in principle. The vehicular access and turning area would however be outside the boundary. As there would be no above ground structures, the development would not cause harm to the appearance of the countryside and is therefore acceptable.

The proposed facility is outside the development site boundary as this is the lowest point for sewage collection to the pump chamber for all of the dwellings before it is pumped uphill to the main sewer in High Street.

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 five years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping.

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

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

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

