

DEVELOPMENT CONTROL COMMITTEE – 24 August 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).

REPORT OF THE PLANNING SERVICES MANAGER

1. Planning Applications

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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.

24/08/2004

Item 1.1**Reg. No.** 9 2004 0736U

Applicant:
 Nigel Collyer
 161 Station Road
 Melbourne
 Derby
 DE731BQ

Agent:
 Nigel Collyer
 161 Station Road
 Melbourne
 Derby
 DE731BQ

Proposal: The use as domestic garden of land to the north of Station Road
 Melbourne Derby

Ward: Melbourne

Valid Date: 08/06/2004

The Application is brought to Committee on the instruction of Councillor Carroll.

Site Description

The site is part of a field to the rear of 159A & 161 Station Road. The side garden of No 159 abuts the land to the western boundary. The boundary with No 159A is a low fence and shrubs, whilst a 1.8 metre high brick wall defines the boundary with No 159.

Proposal

The applicant seeks to continue usage of the land as part the garden to No 161. The land has been mown but no boundaries have been erected to date.

Responses to Consultations

The Parish Council and Melbourne Civic Society have no objection.

Responses to Publicity

An adjoining neighbour objects in the following terms:

- a) The current boundary comprises a 1 metre high fence covered with established vegetation, which is a wildlife habitat.
- b) The application site is at a higher level than the neighbouring property. The level difference and the low boundary accentuate the effect of being overlooked.
- c) Neighbours already have experience of the impact of the development as it was prepared and sown with grass about a year ago and has been used by the applicant's children for play. Subsequent mowing operations have resulted in noise disturbance. This would continue in the event of permission being granted.

- d) A tall screen fence would not be appropriate as it would be out of character and would overbear on the neighbouring bungalow because of the difference in site levels.
- e) Continuing placement of play equipment on the land flouts planning legislation.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Environment Policy 1

Emerging Local Plan: Policy ENV3 & 7

Planning Considerations

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

- The principle.
- Impact on the character of the countryside
- Residential amenity.

Planning Assessment

Being away from the village boundary albeit associated with a ribbon of housing, the proposal must be considered in relation to countryside policy. In strict terms it fails the test of being unavoidably necessary in the countryside and is not strictly in accord with the countryside character of the area behind the ribbon of housing.

Having said that, being set against existing gardens on two sides the impact of using the land for such purpose would not result in demonstrable harm to the character of the area, subject to conditions controlling permitted development and boundary treatment.

With the existence of adjacent residential gardens, the change of use would not normally amount to a loss of amenity to neighbours, capable of justifying refusal. A condition relating to boundary treatment would enable a suitable means of privacy to be afforded to neighbours. Otherwise the applicant would be entitled to erect a 2 metre high gate, wall or other means of enclosure without the need to apply for planning permission.

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

Recommendation

GRANT permission subject to the following conditions:

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no buildings and no gates, walls, fences or other means of enclosure shall be erected on the application site, except as authorised under the submitted application or by any other condition attached to this permission, without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

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

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

24/08/2004

Item 1.2**Reg. No.** 9 2004 0878U**Applicant:**

Mr S Boardman-Weston
 Grangewood Hall Grangewood
 Netherseal
 Swadlincote
 Derbyshire
 DE12 8BE

Agent:

Tim Howard
 Howkins And Harrison
 12 Church Street
 Atherstone
 Warwickshire
 CV9 1RN

Proposal: The creation of two additional tennis courts and erection of fencing at Grangewood Hall Grangewood Netherseal Swadlincote

Ward: Seales

Valid Date: 08/07/2004

Site Description

The site is a field located within the open countryside adjacent to an existing tennis coaching centre which is located on a site formerly used for a fencing business. The site is separated from the adjoining field by a post and wire fence and trees are located on the side boundary with the existing tennis courts and to the south of the site. The northern boundary adjoins the access track to the existing tennis courts.

Proposal

The application is for two tennis courts to be used in connection with the existing tennis coaching centre at Grangewood. The application proposes fencing and landscaping around the site.

Applicants' supporting information

A letter from the Applicant's Agent states the following:-

The Applicant recently acquired the land and owns the majority of the surrounding land and property. The site has not been used for some years and has become overgrown and untidy, it also has a ragwort problem that is causing serious danger to the neighbouring farmers' livestock.

The application is to change the use of the site in a way which is considered more appropriate, in keeping with the location and which will ensure that there is no detriment to the area or nuisance to other properties in the locality. In the process, the area, that is presently bare and unattractive because of its previous unattended state, will be enhanced.

Furthermore the site is to be used for a sustainable activity, of value to local people, in a convenient and an attractive setting as an addition to the existing and already successful

Grangewood Courts. The intention is to construct two further tennis courts which will be used by a professional tennis coach, licensed by the LTA, for the purpose of coaching local children.

It is expected that the volume of traffic visiting Grangewood will not be increased from the current levels caused by the existing activity. There is ample car parking provision at the site already and this will not have to be expanded.

The courts will be fenced with green, chain-link fencing which will not be visible from the road at any point off site as it is proposed to keep the fence no higher than the existing agricultural fence.

There is no need for floodlighting on these courts.

The whole site will be landscaped sympathetically with grassed areas surrounding the courts and with the site boundaries being planted with trees and shrubs to enhance the site. The site is surrounded by other mature trees that will not be affected by the development. The Applicant will be happy to plant the area sympathetically in accordance with the national forest and any other guidelines that may be set out.

There will be no new buildings connected to this activity and it will not be necessary to alter the structure of any existing buildings.

A letter from Derbyshire Tennis Association states:-

The head coach of Grangewood Court tennis complex has developed a major programme of tennis opportunity at a two court rural site catering for talented children and adults and it has now become apparent that there is a need for two all weather additional non-floodlit courts adjacent to the existing courts. These courts will be required to provide a higher level of coaching for existing members and new players who have demonstrated talent and have been targeted by the Lawn Tennis Association in conjunction with the club coaches for excellence based coaching.

At present the club is involved in the following County and National initiatives:-

- Nationally accredited Mini Tennis Centre (A site to develop children under the age of ten using clearly defined goals and objectives)
- County Accredited Pathways Development Centre (A talent identification trail where local school visits are provided free of charge to select the most talented children for excellence coaching.)
- Participation in The National Junior Club League Competition
- Participation in The under 14 Road to Wimbledon
- Entered in Burton Area League and Derby Junior Area League
- Active fully affiliated Derbyshire member club

A letter from the Head Coach/ Owner states:-

The Head Coach has been coaching for over twenty years and there are currently three other coaches working at Grangewood along with several young tennis assistants who have progressed through the coaching system over several years. The Coach has coached children up to National standard and many children have achieved County Champion status. For years he has been seeking a suitable venue to provide the opportunity for taking young players to levels which a normal tennis club would find difficult to achieve.

Although the centre is a LTA affiliated club the main objective of the centre is to provide quality tennis coaching for both children and adults. The centre caters for beginner standard players through to National standard with the main aim being to identify talented young players from the age of 3 upwards.

The centre is currently working with the LTA on a new initiative which involves working with 6 of the local South Derbyshire Schools to identify young talented children who will be given long term sponsorship to provide them with coaching at the centre to produce future 'Champions'. This initiative gives certain talented children from less wealthy backgrounds the opportunity of receiving quality coaching which would normally be beyond their budget.

The Lawn Tennis Association already class the centre as a 'Centre of Excellence' even though there are currently only two courts. If the centre is to continue to improve the level of coaching quality it is essential to devote more court time to 'singles' competition. This consequently means that the present 2 courts are insufficient and 2 further courts are required so that the centre is able to provide a suitable venue for singles tournaments and to allow more time for individual training. Two additional courts would allow the centre to progress into a nationally recognised 'Centre of Excellence' for talented local juniors.

If planning consent was granted there would not be a marked increase in people attending the centre as the participants would be selected on a 'Talent' basis only. As more children would be introduced to the game of tennis this would result in an increase in membership for the local clubs as those children who had received coaching at the centre would then be fed into the local clubs to continue with the sport long term.

Planning History

Planning permission was granted in 2002 for the formation of two tennis courts and associated lighting on land that was formerly used for a fencing business.

Responses to Consultations

The County Highway Authority states that visibility at the access is substandard however in view of vehicle speeds on Grangewood Road and its lightly trafficked nature they do not believe that an objection on such grounds could be sustained. They consider that the Applicant should be advised that additional parking space might be required to ensure there is sufficient space within the site for the parking and turning of vehicles to avoid any likelihood of vehicles being parked on the classified highway.

The Environmental Health Manager has no comments to make.

The Parish Council raise no objection to the erection of the additional tennis courts and fencing however they recommend that a restriction is placed on the application that the courts are used solely for coaching purposes and that a tennis club is not allowed to be formed in this location. The Parish Council also recommends that no further lighting is allowed on the proposed new courts.

Responses to Publicity

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

- The existing floodlights are very intrusive and detract from the countryside, the current proposal is a significant intensification of the use and more floodlights are likely to be required in the future.
- The development is inappropriate in the countryside on agricultural land.
- Concern that the centre is to be used as a social tennis club (an alcohol license has been granted) as well as a coaching centre, which would result in traffic generation and further intensity in the use of the site.
- Netherseal tennis club are concerned that if the centre becomes a social club then it may compete with their non-profit making club, which provides important facilities for the pupils from the village school free of charge.
- Concern that the outlook from a neighbouring dwelling will be altered by the formation of more tennis courts and that noise levels will be greater.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Leisure and Tourism Policies 2 and 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 location of the site within the open countryside and the resulting impact upon the landscape and sustainability objectives and the impact of the development on the amenity of the occupiers of neighbouring dwellings.

Planning Assessment

The site is located within the open countryside adjacent to the existing tennis centre which was permitted in 2002 on the basis that small scale recreational development is acceptable in the open countryside and that the use would be less intensive than the previous use of the site.

The additional two courts are proposed on a field area adjacent to the existing site and structure and local plan policies adopt a sequential approach to the location of new leisure facilities whereby such facilities should be located within or on the edge of towns or serviced villages unless the development needs to be in a particular location because there is a meaningful and demonstrable link with the particular location. In this case it is considered that the fact that the existing tennis centre is established at Grangewood and that the additional courts are required to expand the centre is sufficient to demonstrate a link with the location. In view of the facts that the courts would be constructed at existing ground level, that landscaping would be provided around the site and that the courts would not be floodlit would ensure that there would be minimal impact on the countryside and landscape.

The Applicant has stated that the proposed courts are unlikely to generate significant additional traffic movements as the courts are required so that there is space for individual training and so the site is appropriate for holding singles tournaments. There is sufficient parking provision for the centre located to the north of the existing courts.

Other than dwellings under the ownership of the Applicant the closest dwellings to the site are approximately 150 metres away on the far side of Lodge Road, in view of the facts that the site is to be landscaped with trees on the boundaries, that Environmental Health do not object and that the courts are not to be floodlit it is considered that the proposal will not result in a significantly detrimental impact on the occupiers of the neighbouring dwellings.

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, 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.

3. 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.

4. 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.

Informative:

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.

24/08/2004

Item 1.3**Reg. No.** 9 2004 0891F**Applicant:**

T-Mobile Ltd
 Hatfield Business Park
 Hertfordshire
 AL109BW

Agent:

Stappard Howes Associates
 Unit4A Sovereign Court 2
 Sir William Lyons Road
 Coventry
 CV47EZ

Proposal: **The installation of a 18 metre monopole, 3 antennas, 2 dishes, an equipment cabin and ancilliary development at Hall Pastures Farm Moorway Lane Littleover Derby**

Ward: Willington/Findern

Valid Date: 09/07/2004

This application has been brought to the Committee at the request of Councillor Ford.

Site Description

The site comprises part of a field set some distance away from the farm complex. It is an open landscape with hedges and trees on the field boundaries to the north and east. The site lies inside the line of the east boundary hedge.

Proposal

This is as described above, the mast was originally proposed as a solid 'telegraph' pole construction of a colour to be agreed with the Local Planning Authority (see below). The cabin would be set within a fenced compound with an overall height of 2.4 metres. An amended plan is currently expected that aims to reduce the visual impact.

Applicants' supporting information

The site has been chosen because of its isolated location, its relationship to the search area and other parts on the network in the locality. The site benefits from good tree screening to the north, east and south up to a height of 17 metres. The 18 metre high mast is therefore proposed to ensure that there are clear views to the rest of the network.

Alternative sites have been looked at and the applicant's assessment of them is set out below:

ETS - Existing Telecom site, ES - Existing Structure, RT - Roof Top, GF – Greenfield

Site	Site Name and address	Reason for not choosing
ETS	O2 Lattice Tower, Stenson Fields Depot, Littleover	This site is outside the search area and in an exposed location. Furthermore it is approximately 130m from residential property. Any planned extension of the mast in this location would be extremely contentious and likely to provoke strong reactions from the surrounding residential areas.
GF	Land adjacent to railway, Stenson Fields, Littleover	The site provider is unwilling to allow telecommunications development in this location.
ES	East Midlands Electricity Pylons	The line of pylons is too far from the search area to provide coverage.
GF	Streetworks Solution, Belgraves Lane	The site is in a residential area and in close proximity to detached housing.
ETS	Three Mast, Hall Pastures Farm, Littleover	The 'Three' mast at the farm is too far from the search area to provide adequate coverage to the cell. RF plots discounting the option to follow under a separate cover.

Plot diagrams that indicate that there is a lack of coverage for the emerging 3G telecommunications system accompany the application. These provide evidence of how the chosen solution best rectifies the gap in the current coverage. They are available for inspection on the file.

Attention is drawn to Government advice in PPG 8 relating to the provision of masts, emphasising the need to provide the infrastructure and that the planning system is not the place to discuss the health implications of the technology. It is confirmed that the output from the mast is in compliance with the ICNIRP Public Exposure Guidelines and there is a signed certificate to that effect on the file.

Pre application consultations by the applicants have been undertaken with elected representatives and the Parish Council.

This is a relatively brief summary of a much larger submission that covers the detail contained in PPG 8 and other information relating to the provision of masts generally.

Planning History

None

Responses to Consultations

Findern Parish Council has concerns about the effect of the mast on the well being of pupils at the schools in Derby.

Derby City Council has no objection to the principle of the mast but advise that the land on the City side of the boundary is to be developed as a City Park and suggest that a less prominent form of mast should be provided.

The Environmental Health Manager notes government advice in PPG 8 and has no comment on the proposal.

The County Highway Authority has no objection but notes that the access point into the site is within the City Council boundary.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: None

Local Plan: Community Facilities Policy 4

Emerging Local Plan: Policy C 7

Planning Considerations

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

- The need for the mast
- The availability of alternative site and potential mast sharing
- The acceptability of the proposed location in terms of visual intrusion and design.

Planning Assessment

The Development Plan makes provision for the expansion of networks provided it is done in a planned way that maximises the opportunities for mast sharing that reduces the need for additional mast sites.

The latest generation of wireless telecommunication requires much smaller cells than was the case previously. This means more masts to serve the same area previously served by one mast.

There are a significant number of trees available that would screen the majority of the mast from most public vantage points albeit that the top of the mast would always be visible. This is inevitable given the need for a direct line of sight to the masthead.

So far as the issues of the actual impact of electromagnetic radiation on the users of schools within the city boundary is concerned, the schools are far enough away not to fall within a range where this could be a justifiable reason for refusal. Government advice is quite clear on the health issue in that the matter is not one that can influence a decision on the planning issues surrounding the determination of a planning application for a mast where the applicant is certifying that the emissions from the mast are in conformity with ICNIRP (International Commission on Non-Ionising Radiation Protection) guidelines. This is the case with this application.

The conclusion on this issue is that the health and perceived health risk are not reasons for refusal that could be sustained at appeal.

The expected amended plan is intended to address the concern raised by the City Council.

Overall, the proposal is considered to be in accord with the above Development Plan policies subject to a condition to ensure the removal of the equipment if the site is no longer required for telecommunication purposes in accordance with Policy C 7.

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. This permission shall relate to the amended plans for the construction of a slim line lattice mast as submitted under cover of your letter dated

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

3. Details of the finished colour of the mast hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. The approved colour shall then be used to colour the mast following its construction.

In the interests of the visual amenity of the area.

4. In the event that the site is no longer required for the operation of a telecommunications system, the mast and associated structures shall be permanently removed from the land and the land shall be restored to pasture land in accordance with a scheme that has received the prior written approval of the Local Planning Authority.

In order to ensure that the land is restored in the interests of the open character of the area.

24/08/2004

Item 1.4

Reg. No. 9 2004 0905D

Applicant:

Mr S Batchelor
South Derbyshire District Council
Civic Offices, Civic Way
Swadlincote
Derbyshire
DE11 0AH

Agent:

Mr S Batchelor
South Derbyshire District Council
Civic Offices, Civic Way
Swadlincote
Derbyshire
DE11 0AH

Proposal: **Application for approval of reserved matters of planning permission (9/2003/1299) for the erection of three log cabins with associated amenity space and access at land to the south of Rosliston Forestry Centre Burton Road Rosliston Swadlincote**

Ward: Linton

Valid Date: 15/07/2004

Site Description

The site is an area of semi-mature woodland located between approximately 180 metres and 240 metres to the south of the visitors' centre at Rosliston Forestry Centre.

Proposal

The application is a reserved matters submission for three log cabins, siting and access were dealt with at outline stage and the reserved matters now for consideration are design, external appearance and landscaping.

Planning History

Outline consent for four log cabins and full planning permission for one of the four cabins were granted last year.

Responses to Consultations

The County Highway Authority has no objections.

The Environmental Health Manager has no comments.

Responses to Publicity

None received.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Leisure and Tourism Policies 2 and 5.

Local Plan: Recreation and Tourism Policy 1.

Emerging Local Plan: Policies LRT 3 and 7.

Planning Considerations

The main issues central to the determination of this application are the design and appearance of the log cabins and any associated landscaping.

Planning Assessment

Outline consent for the log cabins was granted last year and the details of siting and access were dealt with at that stage. The principle of the development and the proposed access and siting of the cabins are therefore acceptable. The proposed cabins are to be of the same design and appearance as the cabin which has already been approved and constructed and are therefore considered acceptable. Additional landscaping is not considered necessary in this case, as the cabins are located within semi-mature woodland. A depth of between 50 and 70 metres of woodland exists between the road and the nearest log cabins, this woodland will therefore provide screening of the site from any public vantage point and the screening will become more effective as the trees mature.

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 buildings 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.

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.

To note that the conditions on outline consent reference 9/2003/1299/O must be complied with.

24/08/2004

Item 1.5**Reg. No.** 92004 0924F**Applicant:**

Grounds & Facilities Dept
 South Derbyshire District Council
 Civic Offices
 Civic Way
 Swadlincote
 Derbyshire
 DE11 0AH

Agent:

Grounds & Facilities Department
 South Derbyshire District Council
 Civic Offices
 Civic Way
 Swadlincote
 Derbyshire
 DE11 OAH

Proposal: Flood alleviation works including the widening of the watercourse by up to 3.0 metres and the replacement of bridges and culverts from section from Turflands to south east corner of Nestle factor Salt Brook Hatton

Ward: Hatton

Valid Date: 20/07/2004

Site Description

The site comprises land adjacent to the Salt Brook as described in the title block above. In the main this is agricultural land but there are areas where the brook passes beneath roads and footpaths or is adjacent to gardens of proposed or existing dwellings.

Proposal

The proposal involves the widening of the Salt Brook to increase its ability to carry excess water at times of heavy rain. This would involve taking material away from either side of the bank as appropriate, to provide a channel width at a higher point than the original water channel that in places would also be increased in depth. Thus once the original channel is full, the additional channel would come into play and allow a greater volume of water to reach the River Dove without overtopping the channel. This would have the effect of ensuring that floodplain land is retained to accept water at a later time than is the case now. The design of the works is such that the water would be directed onto the floodplain and normally help to protect dwellings from flooding.

The proposals would necessitate the removal of some trees along the course of the brook. The majority of this would occur in the vicinity of the northeast corner of the Nestle factory where some 18 trees are to be felled if the application were permitted. This is the majority of the trees present in this location. The vast majority of these are crack willows but there is also the occasional cherry and hawthorn. One of these trees is identified as a possible native black poplar. This tree type is identified in the lowland bio diversity action plan as an important local tree species. A further 5 or 6 trees would be felled along the rest of the length of the brook.

Applicants' supporting information

An Ecological Survey Report accompanies the application. The primary function of this was to identify if the presence, if any of protected species. This was primarily aimed at the water vole but also looked for bat roosts and badgers. None of these protected species were identified on the line of the affected brook. However, the report advises a precautionary approach to the removal of dense scrub along the route of the brook and if burrows are identified, then a specialist should be brought in to examine if they are the burrows of water voles and advise on any measures to ensure that disturbance is minimised. This survey work is best undertaken in October.

A full tree survey has been undertaken and there are some tree trunks in a state that would allow for the presence of bats but none were identified as being present. Trees should be inspected prior to removal to establish if bats are present. This should include an internal inspection of cavities and areas of rot. Again tree works should be undertaken in October. An evening bat emergence survey with an ultrasonic bat detector to check for their presence in trees to be felled or pruned is recommended. Any felled trees or branches removed should be carefully lowered to the ground to allow any bats to escape prior to being removed.

There are no badger setts identified in the area.

Attention is drawn to the need to avoid felling or pruning of trees during the bird-nesting season (March to the end of August).

It is acknowledged in the report that there would be a loss of trees in the lower reaches of the brook. If trees are to be lost, they should be replaced with local native tree saplings. If possible the brook course should be diverted or trees should be pruned and pollarded rather than be felled.

It is acknowledged that the works would affect native black poplars. It is suggested that where such trees are present, the channel should be widened on the opposite bank. One of these trees has fallen across the brook; its trunk should be removed and laid to rot naturally. The stump should be trimmed to a clean cut to allow growth to re-establish whilst avoiding infection.

The report also identifies potential disruption to traffic on Station Road during the construction phase of the development as well as the potential for dust.

A full copy of the report is available for inspection on the file.

Planning History

None but there have been various planning applications along the course of the brook but do not directly affect this application. The proposals do show the access link over the brook at Yew Tree Farm removed and not proposed to be replaced.

Responses to Consultations

The Environment agency supports the proposal as a flood mitigation measure.

Hatton Parish Council has no objection and strongly supports the application.

Network Rail raises concerns about works in the railway corridor not being allowed to affect the train service using the line. Further details of the work plan are required and supervision by railway staff at the Council's expense may be necessary.

The Derbyshire Wildlife Trust has checked the proposals against various data sources and has identified that there is a candidate Wildlife site and black poplars affected by the development. It is satisfied that the ecological report picks up on all the mitigation issues associated with the known ecological features of the site. The suggestions are that the mitigation measures suggested in the report should be used as planning conditions and that the opportunity should be taken to enhance the area for biodiversity. It is suggested that native black poplars should be planted and the opportunity taken to manage the brook course to encourage water voles. The new banks should be fenced off if cattle or horses are present in the fields (except for drinking points) to prevent the new banks being eroded.

In view of the need to progress this application as soon as practicable, it has been brought to Committee at the earliest possible date. This means no consultation replies had been received when the report was prepared. The County Highway Authority, the Environment Agency and the Derbyshire Wildlife Trust have indicated that their responses should be available in time for the meeting. Accordingly, any responses received prior to the meeting will be reported verbally.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Environment Policy 1

Local Plan: Environment Policy 1 & 2

Emerging Local Plan: Policy ENV 3, 7 & 13

Planning Considerations

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

- The impact on the local environment.
- Proposed and other mitigation measures arising from the application.

Planning Assessment

The main impact of the development is the loss of trees and the removal of potential habitat along the route of the proposed works. The loss of trees has to be balanced against the benefits that would arise from increasing the capacity of the brook course. The main loss of trees is identified above and comprise almost entirely of crack willows. This is a relatively common tree in the countryside and its loss in itself would not be significant. However, the trees provide a visual screen to the Nestle factory for occupiers of a farm to the east of the brook. The farm is at some 400 metres from the factory and there are other trees and hedges between the factory and the farmhouse. The loss of the willow trees is not considered to be significant in these circumstances.

The loss to of the native black poplar is to be regretted if it is essential to the flood mitigation works. There are other examples of the tree along the brook course that would be retained but a request has been made to see if it could be retained by using the mitigation measures suggested in the supporting information. (i.e. pruning or pollarding).