

## DEVELOPMENT CONTROL COMMITTEE – 10 May 2005

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 Applications**

#### INDEX TO 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.



10/05/2005

**Item** 1.1

**Reg. No.** 9/2004/1495/F

**Applicant:**

Mascotta Properties Ltd  
1 (B) Derby Road  
Borrowash  
Derbyshire  
DE72 3JW

**Agent:**

G. Markwell  
Graham Markwell Associates  
1B Derby Road  
Borrowash  
Derbyshire  
DE72 3JW

**Proposal:** The demolition of the existing shop and premises and the erection of six new dwellings at 109 Swadlincote Road Woodville Swadlincote

**Ward:** Woodville

**Valid Date:** 12/11/2004

This item is brought to the committee under the instruction of Councillor Taylor.

**Site Description**

This former shop and premises, now demolished, is on the north side of Swadlincote Road between terraced houses. The width of the front of the site between the existing houses is some 9.4m, which widens at the rear to 24.4m. The depth of the site is some 68m.

**Proposal**

It is proposed to erect six houses, two detached and four semi-detached. A dwelling is proposed to fill the gap at the front of the site with a covered passage running through it to give vehicular access to the five dwellings proposed at the rear.

**Planning History**

Outline permission was granted on smaller area of land within the site in July 2003.

**Responses to Consultations**

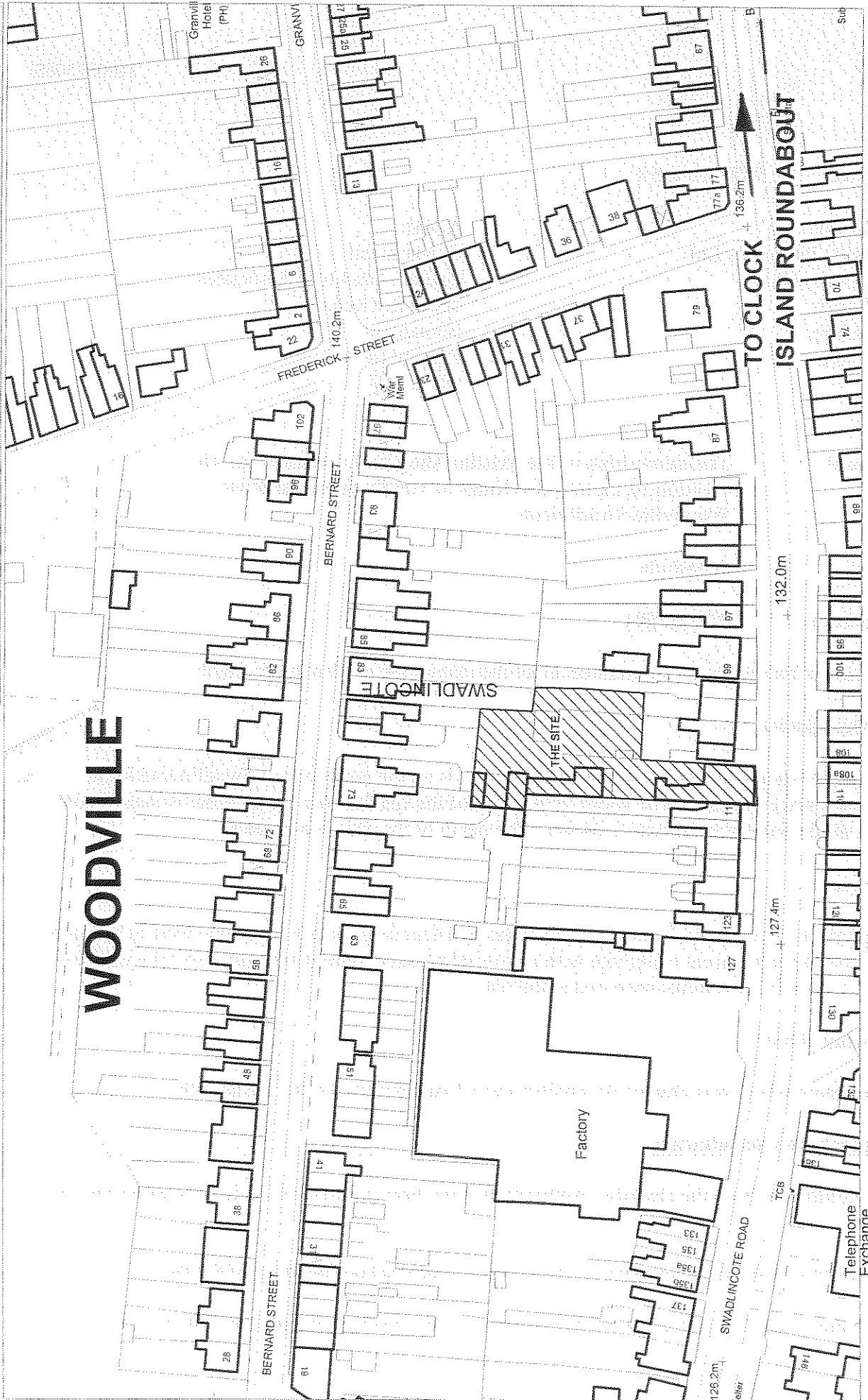
Final comments from the Highway Authority had not been received at the time of preparing this report.

The Education Authority requires a contribution to local school facilities of £7,884.

The Primary Care Trust requires a contribution to local medical facilities of £444 per dwelling.

9/2004/1495/F 109 Swadlincote Road  
Woodville

# WOODVILLE



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Scale 1:1250  
Plot centred at 430989 319249

Date Plotted 27/4/2005  
9/2004/1495/F 109 Swadlincote Road  
Woodville

The Environmental Protection Manager comments that the land has been used as a shop and the land to the rear may have been used for light industrial usage and considers there is a possibility that contaminants may be present in the soil. He recommends that the site is investigated to determine whether the land is contaminated and any remedial works undertaken before development commences.

### **Responses to Publicity**

One letter has been received from the neighbouring resident objecting on the grounds of the narrowness of the access, increased disturbance from the new access, inadequate visibility and loss of privacy due to the close proximity of the access. The neighbours gable wall was left exposed and potentially unstable following the demolition works, however, this appears to have been rectified with the erection of new a secondary gable wall.

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

The relevant policies are:

Joint Structure Plan: Housing Policy 3 and 4

Local Plan: Housing Policy 5 and 11

Emerging Local Plan: H1 and ENV21

### **Planning Considerations**

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

- Highway safety
- Affect on the amenity for neighbouring residents due to increased disturbance and overlooking.

### **Planning Assessment**

The comments of the Highway Authority are awaited. Previously expressed concerns about the width of the access appear to have been overcome by the submission of a 1/50 scale surveyed drawing.

The proposal complies with the Councils housing layout guidelines and therefore adequate amenity would be safeguarded for existing residents with regards to privacy and overbearance. Vehicle movements are likely to be relatively low and therefore would not cause undue disturbance to the neighbouring property. Further mitigation could be provided with suitable boundary treatment, preferably a brick wall.

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**

Provided no objection is raised by the Highway Authority and provided the applicant enters into a legal agreement or offers a unilateral undertaking under Section 106 of the Town and Country Planning Act to secure the payment of medical and school contributions then **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 drawings, nos 04 GM 08/35 10 Rev. B, 04 GM 08/35 11 Rev. A, 04 GM 08/35 15 Rev. A, 04 GM 08/35 17 received on 8th, 30th March 2005.

Reason: In the interests of highway safety and in the interests of the appearance of the building and the streetscene.

3. No development shall commence on site in connection with this approval until samples of materials for the external elevations of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.

Reason: To ensure the materials are appropriate to safeguard the appearance of the area.

4. Notwithstanding any details submitted, precise details of the type and size of the proposed rooflight on the front elevation of plot 1, which shall be a conservation type, shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight shall be fitted such that its outer face is flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

5. 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.

6. 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, which shall where necessary include boundary walls. 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 and to safeguard the amenities of neighbouring residents.

10/05/2005

**Item** 1.2**Reg. No.** 9/2004/1515/M**Applicant:**

St Modwen Developments Ltd  
 Lyndon House  
 58/62 Hagley House  
 Edgbaston  
 Birmingham  
 B16 7BW

**Agent:**

Barton Willmore  
 The Barton Willmore Planning Partnership  
 Beansheaf Farmhouse  
 Bourne Close  
 Calcot  
 Reading  
 RG31 7BW

**Proposal:** **Outline application (all matter to be reserved) for the erection of a residential development at Area H23 And H24 Former Hilton Depot Hilton**

**Ward:** **Hilton**

**Valid Date:** **18/11/2004**

**Site Description**

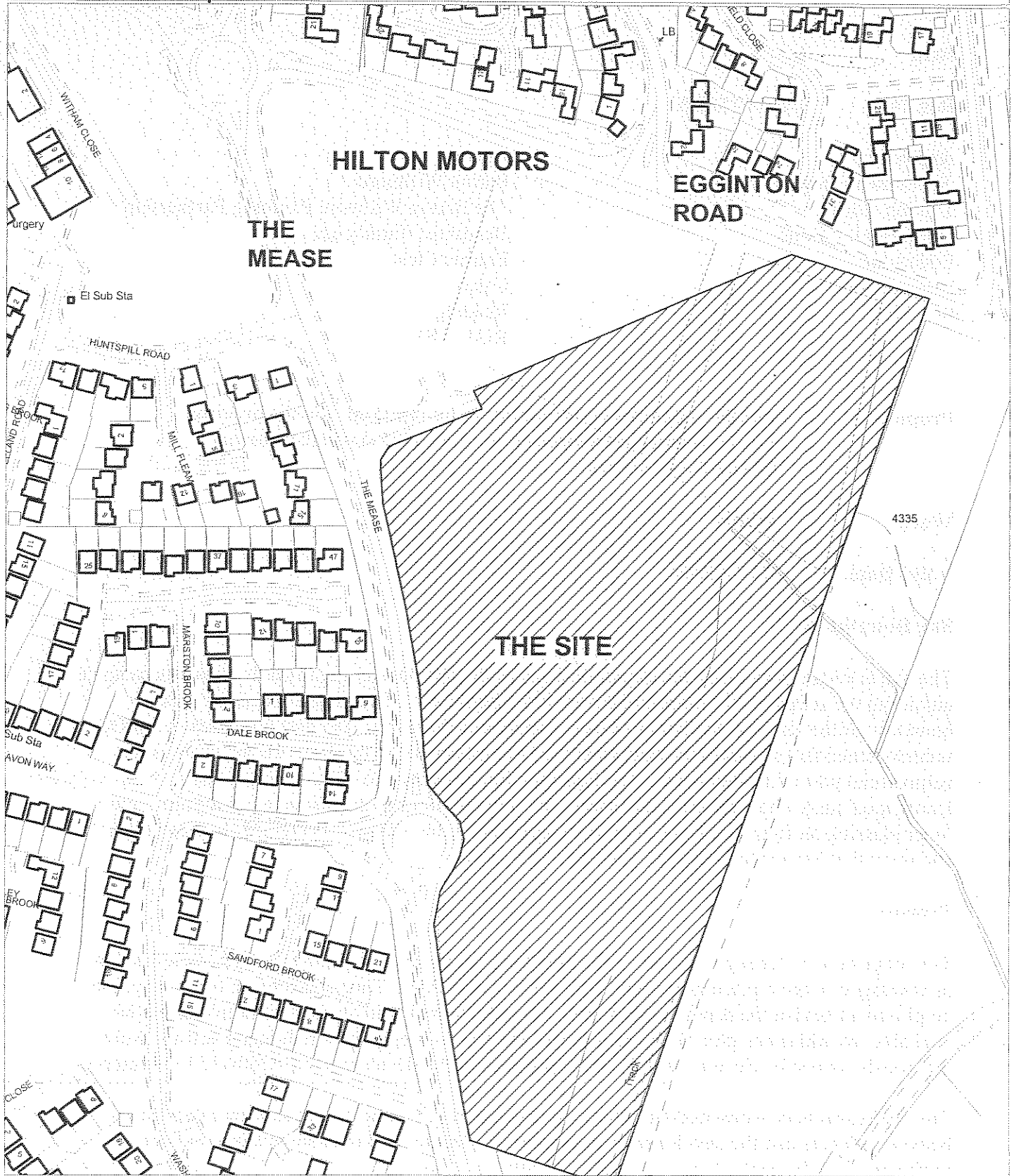
The site is vacant previously developed land, generally flat but sloping towards its southern point adjoining the access to the commercial part of the Depot site. The Mease forms the west boundary of the site with the Hilton Garage complex to the north. The east boundary is a MOD security fence that separates the land from the Don Amott site to the east. To the south is the commercial part of the depot site. The Egginton Road frontage to Hilton Motors has a landscaped bund where the trees and shrubs are now becoming established and provides, with other planting on Egginton Road, an avenue approach to the village. There is a drainage ditch and pond that lies towards the east boundary of the site.

**Proposal**

The proposal is to 'change' the use of the land from the permitted employment use to residential as envisaged in the replacement South Derbyshire Local Plan. This would mean that some of the employment land at the depot would be lost. In order to maintain quantity of employment land available, an additional plot of land adjacent to the depot comprising a redundant sewage works, previously owned by Severn Trent Water is proposed to be development (9/2004/1514/O refers).

The applicants have submitted the following undertakings in support that reflects negotiations between officers and the developers in respect of the Section 106 provisions that would be forthcoming if the application were to be permitted:

The approach taken in order to simplify the process of concluding agreement is to identify a total financial contribution that should be made and an associated range of matters on which it might be spent. The District Council in dialogue with stakeholders would then determine the precise



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Scale 1:2500 Date Plotted 27/4/2005

Plot centred at 425247 330320

9/2004/1515/M Area H23 & 24  
Former Hilton Depot





manner in which to apply the funds (together with outstanding funds currently with or shortly to be paid to the Council in relation to the original agreement). *These monies have now been received.*

The S106 Agreement in relation to the new planning application would have the following main heads:

1. **Affordable housing:** in view of the sustainable location of parcels H23/H24, in close proximity to the local centre and its shops and services, and to the bus route, 25% of the total housing within the parcel would be affordable housing. St Modwen is currently investigating with Registered Social Landlords the mechanisms by which this housing might be delivered and would like to discuss further with the Council the precise mix and form of this affordable housing once those discussions have been progressed. In principle, the agreement between the Council and St Modwen would be relatively straightforward, requiring the delivery of the quantum of housing but leaving financial arrangements to the RSL.
2. **Extension of time for completion of the local centre:** the current S106 Agreement sets a limit to the duration for which the land at the local centre must be made available for appropriate purposes and that time is due to expire shortly. In view of the continuation of the residential development with H23/H24, it is appropriate to extend this time period and the period would be extended for 5 years from the date of completion of the S106 Agreement. Thereafter, any land at the local centre that has not been taken up for retail or service facilities required of the local centre would be released from this obligation and become available for other development purposes (likely to be housing), subject to planning permission.
3. **Education site:** St Modwen Developments will when requested in writing provide the primary school site (approved under planning permission 9/2004/0370/M) to the County Council as Local Education Authority for the sum of £1 (effectively free of charge).
4. **Payment of a financial contribution:** On first occupation of the first unit of open market housing on the site (parcels H23/H24), St Modwen would pay to the Council a sum of £2,500,000, index linked from the date of completion of this Agreement, towards the implementation of the measures set out below. (This is made up of: £2,050,000 for the Etwall Leisure Centre and/or improved leisure facilities within the Village Hall at Hilton, together with education contributions; £40,000 as an approximate 'top up' contribution towards the traffic calming works in the village centre and/or extending the foot/cycleway link between Hilton and Etwall; £30,000 towards the costs of cleaning up and developing visitor facilities at Hilton Brook and completing the Greenway between the site and the village; and £290,000 towards the provision of additional outdoor recreational facilities at the Village Hall and/or other community initiatives included in the Village Plan; and £90,000 as the health contribution, based on 200 dwellings x £444 per dwelling, which is the calculation in relation to the current planning application for Parcel H22.)  
Any part of this contribution that remains unspent at the end of a period of 10 years, commencing from the date of payment, would be repaid to St Modwen with interest. The works to which this money may be applied are:

- (i) the provision of traffic calming works in the centre of Hilton village (additional to the works that can be afforded out of the contribution of £25,000 provided under the current S106 Agreement);
  - (ii) the provision of a safe road crossing at the Creamery Bridge and footpath/cycleway link to the cycleway proposed by Derbyshire County Council along the line of the disused railway;
  - (iii) works to complete this cycleway link between the Creamery Bridge and the village of Etwall;
  - (iv) the laying out of open space and provision of wildlife interpretation material alongside Hilton Brook on the western edge of the Hilton Depot site;
  - (v) the completion of the footpath/cycleway link from the Greenway in the vicinity of Parcel LCH1 to Peacroft Lane, including modified/improved security fencing and access to the village hall;
  - (vi) the provision of health care facilities to serve the enlarged population of Hilton Depot, including by extension of the medical centre at the local centre or by other capital works to health care facilities within a 5 mile range of Hilton;
  - (vii) the provision of education facilities to serve the development (taking into account the financial value of the free transfer of land for the primary school site referred to in point 3 above);
  - (viii) the provision/extension/enhancement of sport and leisure facilities to serve the development, lying within a 5 mile range of Hilton;
  - (ix) such other capital projects within a 5 mile range of Hilton that are genuinely required to serve the development and which are unable to be funded from other sources.
5. **Greenway:** St Modwen will complete the Greenway from The Mease to Eggington Road at the eastern edge of Hilton Depot. (This work may be secured by planning condition and may not need to be included within the S106 Agreement.)
6. **Landscape provision on the eastern boundary of Parcels H23/H24:** as explained in the covering letter to the planning application, dated 15<sup>th</sup> November 2004, the provision of a landscape buffer along the eastern edge of the development is unlikely to be necessary in the event that the adjoining land to the east is confirmed as a residential allocation. Accordingly, the planning conditions or S106 Agreement will need to make provision for the delayed implementation of the buffer in the event that the adjoining land is not developed for housing, and its reversion to housing use in the event that the adjoining land is developed for housing.

#### Applicants' supporting information

The policy context for the application site is that it forms part of the adopted Local Plan employment allocation at the former Hilton Depot (Employment Policy 2A). However, the land

is allocated in the Revised Deposit Draft Local Plan (January 2003) for residential development to provide about 150 dwellings (Policy H6).

The Local Plan Inspector has now reported on objections made to the Revised Deposit Draft Local Plan. The Inspector has endorsed the allocation of land south of Hilton Motors for residential development to provide about 150 dwellings recognising that this is previously developed land, close to both major housing areas and existing shops and services in Hilton, and therefore suitable for housing development.

This outline planning application is submitted to enable the timely delivery of housing on this site and to enable the early completion of a new Section 106 Agreement for the site to cover affordable housing, open space and recreational provision, educational provision, and the retention and management of wildlife interests.

The impact on the highway network will be a material consideration but the Inspector does not consider the scale of the proposed development to be sufficient to require a further full transport impact assessment. Accordingly, this and the related E5 application are accompanied by a Transport Statement prepared by Buchanan Consulting Engineers.

The application is accompanied also by a series of reports prepared by ecologists Andrew McCarthy Associates (AMA) including, Results of Preliminary Ecological Survey (April 2004), Results of Phase 2 Ecological Surveys (September 2004), a Badger Addendum (September 2004) and a Great Crested Newt Mitigation Strategy (August 2004).

The Preliminary Ecological Survey of sites including H23/H24 was carried out in April 2004. This revealed a non-statutory protected area in close proximity to sites H23/H24. Lucas Lane Pond is within 500m of sites H23/H24 and was identified by AMA as having potential for supporting breeding Great Crested Newt. AMA recommended that the necessary inspections be undertaken to confirm whether or not newt were present.

Lucas Lane Pond was inspected on six separate occasions between mid-May and mid-June 2004 and found to contain a maximum of 30 adult Great Crested Newt. This indicates that the pond currently supports a 'medium-sized' Great Crested Newt population according to current English Nature guidelines (EN, 2001).

Habitat of the type comprising sites H23/H24 can provide good habitat for Great Crested Newt. As such, it is anticipated that H23 (and to a lesser extent H24) will support a Great Crested Newt population, meaning development of this land will require a licence from the Department for the Environment, Food and Rural Affairs (DEFRA).

A detailed Great Crested Newt mitigation strategy was prepared by AMA (August 2004) that would involve first trapping any newt on the application site and second, relocating the newt colony to a newly created receptor site. Two water bodies/ponds are proposed on the receptor site in order to compensate for the loss of H23 and (to a lesser extent) H24. The site chosen for the receptor site is located approximately 2km to the west of Lucas Lane Pond on land within the applicant's control on the western fringe of the Hilton Brook development.

Following a meeting on site on 16<sup>th</sup> September with English Nature (Lowland Derbyshire), and in a subsequent letter have now endorsed the proposed newt mitigation strategy. The strategy will form the basis of the DEFRA license application, once detailed planning permission is secured.

There is scope to provide a landscape buffer as part of the site's development along the site's eastern and northern boundaries for the purposes of screening and to provide stand-off from Egginton Road. However, the need for such a buffer at least along the site's eastern boundary depends in the main on the future use / development of the adjoining land to the east.

In relation to the adjoining land, the proposed modifications to the Revised Deposit Draft Local Plan make provision for its development. In the context of the subject outline application, it is appropriate to consider how the application site might be developed were the adjoining land to come forward for residential development.

In this event, the landscape buffer along the eastern boundary of the application site would sensibly revert to housing development since it would no longer be required. In the interests of sustainability, it would be important for the adjoining land to take access from the application site, which would allow convenient access for residents of the adjoining new development to the existing village centre, local centre, green way, primary school and playing fields avoiding the need for a further access off Egginton Road. The detailed layout of the housing development proposed in this application should therefore allow for possible future extension of the access ways (roads and footways) into the adjoining land.

In the event that the land does not come forward, provision of the landscape buffer could be retained.

In order to allow time for the residential development of the adjoining land to be properly considered (either in the current Local Plan or in the imminent Local Development Framework) implementation of the buffer should be delayed. We therefore suggest that either a planning condition or a provision of any S106 Agreement should allow a period of 5 years before the landscape buffer needs to be implemented and that this should be waived entirely in the event that the adjoining land is allocated for residential development.

In the context of open space provision across the entire Hilton Brook development, the new development will need to include some public open space provision. An 8m wide landscaped buffer has already been provided along the site frontage with The Mease.

The site has a gross area of 5.74 hectares. Deducting the proposed landscape buffer along the site's eastern and northern boundaries (0.51 hectares) from the total site area leaves a developable area of 5.23 hectares. (Play and incidental open space provision would form part of the net site density). At a PPG3 compliant 40 dwellings per hectare, the application site would provide around 200 dwellings. Although slightly above the capacity envisaged in the Revised Deposit Draft Local Plan, a development of this scale would make efficient use of the application site at a location already recognised by Council Officers as appropriate for further residential development.

### **Planning History**

Prior to being allocated for development the land formed part of the MOD depot at Hilton. The site was first promoted as a development site in 1989 following Toyota's decision to locate in South Derbyshire. An outline application for mixed development was submitted in 1990 and permission was finally granted subject to a legal agreement in January 1993.

The outline permission was renewed in 2000 and it is expected that a further renewal will be granted in the near future. This proposal represents a departure for the original outline permission and is brought before the Committee for that reason.

There have been numerous detailed applications resulting in the final housing submission being granted last year. In the last week permission for an extension of the housing area into land known as H22 was released with a Section 106 Agreement having been signed.

Thus far there have been no applications to redevelop that part of the site allocated for employment use save for the creation of a unified site for Hilton Motors.

### **Responses to Consultations**

Hilton Parish Council has no objection to the principle of the development subject to conditions/agreement so that the proposals include provision for a pedestrian crossing on The Mease, no occupancy of dwellings until the infrastructure is in place, including completion of the new school, a usable amount of public open space being incorporated and that infrastructure landscaping should not count as open space; recreation facilities should be provided before occupancy.

The County Highway Authority has no objection subject to conditions being imposed to secure pedestrian crossing points along the boundary to The Mease, access to the site being provided at 2 points along The Mease, the provision of bus stopping points, the provision of £25,000 towards traffic calming in the village and the provision, without ransom, of two vehicle crossing points to the land to the east. The County Highway Authority states that it is unlikely that a suitable access to this land could be achieved from Egginton Road.

Severn Trent Water has no objection subject to the imposition of a condition to ensure surface and foul water drainage is satisfactory.

English Nature has no objection but comments that various surveys need to be undertaken prior to reserved matters submissions being made to establish the presence or otherwise of protected species and to ensure that no habitats for nesting birds are removed during the nesting season.

The Derbyshire Wildlife Trust has checked the application against various data bases it holds as well as assessing the impact of the proposals on the development site and recommends conditions to preserve the nature conservation issues as identified above in the response from English Nature. In addition the land to the east has been identified by the Trust as a candidate wildlife site. It is recommended that a 5 metre wide buffer strip be retained along the boundary of the site to the candidate site.

The Derbyshire Dales and South Derbyshire PCT requires a contribution to meet the increasing demand for medical facilities in the vicinity based on a figure of £444 per dwelling. Whilst the site would not generate sufficient funds to meet shortages, the Trust would hold the money in a building fund.

The Environmental Protection Manager advises that a Contamination study should accompany a reserved matters submission in order that potential contamination issues can be addressed prior to the development being commenced.

## Responses to Publicity

One letter has been received from the representatives of the owner of the land to the east. The request is that if the application were granted permission, then the permission should make provision for accesses to allow development of this adjacent land. It should be constructed to an appropriate standard. The basis for this comment is that the inspector identified the adjacent land for housing development and if this land is to be available in the Plan period, then the access through the application site is necessary to secure the housing allocation.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policies 1, 2, 4 & 17; Environment Policies 17, 18 & 19; Transport Policies 1, 3, 4, 5, 9, 10, 15.

Local Plan: Housing Policy 1, 9, 11, & 14; Employment Policy 2; Transport Policies 4, 6, 7, 8; Community Facilities Policy 1.

Emerging Local Plan: Policies ENV 1, 2, 3, 12, 13, 14, 15, 16, 17, 21; T1, 2, 3, 4, 5, 9, H 6, 10; C 5, 6; LRT 2, 4.

## Planning Considerations

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

- The Development Plan.
- The Section 106 Proposals
- Affordable Housing
- Access Issues
- Environmental considerations

## Planning Assessment

### The Development Plan

The Development Plan currently comprises the Adopted Derby and Derbyshire Joint Structure Plan and the 1998 Adopted South Derbyshire Local Plan from which this proposal is a departure.. The Council has been preparing a replacement Local Plan and proposed that the application site be reallocated for housing development. The Inspector who dealt with objections to the Local Plan accepted this proposal. He also identified the need for additional land at Hilton to replace the housing land that the Council proposed at Willington Power Station. Modifications have been published accordingly. Members are aware that these have been made the subject of judicial review. Nothing in the applicant's case for judicial review would overcome the weight in favour of this proposal and the applicants for judicial review have not objected to this application. Nevertheless, consideration needs to be given to referring the application to the Government Office for the East Midlands as a departure.

### The Section 106 Proposals

The proposals have been the subject of negotiation with the applicants before the application was made and further discussions have been held at a senior level during the consideration of this application. An initial offer of £2,106,600 has been increased to £2,500,000 in addition land is to be sold to the Authority for £1.00 to provide an additional school facility in the village and

affordable housing effectively at the applicant's expense. This is to be utilised in the way set out above in this report. Officers consider that the offer represents the best that is achievable on a scheme of up to 200 dwellings.

### **Affordable Housing**

The applicants have proposed that 25% of the site be allocated to affordable housing. It would be preferable that, rather than having the housing concentrated in one area, the allocation be spread amongst the general layout of the site. The applicants have stated that they are in discussion with Registered Social Landlords to ensure that the affordable housing is provided in accordance with the policies. This should be governed by the Section 106 Agreement.

### **Access Issues**

The County Highway Authority is satisfied that the site can be served from The Mease. It also requires that provision be made for access to be provided to the land to the east. This is considered reasonable in terms of the proper planning of the area and to secure a safe access to that land.

The Section 106 proposals make provision for the completion of The Greenway through the site extending it up to Peacroft Lane and out towards Egginton Road through the proposed employment land. Provision is also made to provide a safe crossing to the National Cycle network at Creamery Bridge where the link to Etwall is fast approaching completion. The proposal is thus in accord with the Council's adopted Walking and Cycling Strategies.

### **Environmental/Waste Reduction considerations**

The requirements of English Nature can be incorporated as conditions in the outline planning permission. It would be necessary for the applicants to submit all the necessary assessments at the reserved matter stage of the planning process. The views of the Derbyshire Wildlife Trust are noted but given the inspector's recommendations about the use of the land for housing, it is unlikely that the candidate wildlife site would be an option at this stage. Further investigation of this would be necessary if that land was the subject of an application.

Conditions can be attached to the permission requiring the provision of recycling facilities within the new housing area; the Council operates a waste reduction scheme for garden waste, paper and tin in Hilton Parish. Subject to conditions, the proposal is capable of being in accord with the adopted policies.

### **Drainage considerations**

Subject to the submission of appropriate drainage details, the site is considered to be capable of having suitable foul and surface water disposal facilities. The site does not lie in any flood zone identified by the Environment Agency.

### **Conclusion**

The Local Plan proposals for this site have been endorsed by the Inspector and make the best use of formerly developed land in all the circumstances, including re-allocating employment land that fails to come forward for residential purposes. It is also therefore fully in accord with the

advice in PPG 3. The site has good access and The Mease is capable of taking additional residential flows. None of the residents who abut the site has raised an objection to the proposal.

As explained above, however, the application is a departure from the Development Plan and requires to be referred to the GOEM.

### **Recommendation**

That the GOEM be advised that the Council is minded, subject to the satisfactory conclusion to the Section 106 Agreement in the terms as set out in this report, to **GRANT** outline permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
 (b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

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

2. Approval of the details of the siting, design and external appearance of the building(s) the means of access thereto and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

3. 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. The Great Crested Newt Mitigation Strategy shall be implemented in accordance with the recommendations contained within the report before any works of construction are undertaken on the site.

Reason: In the interests of protecting a rare species and seeking to ensure their future well being before development is commenced.

5. In submitting details required by Condition 2 above, a full survey of the trees on H23 shall be undertaken to ascertain whether bats are present within the trees prior to the trees being felled. The survey results shall be submitted to the Local Planning Authority prior to any works being undertaken at the site to remove trees.

Reason: Bats are a protect species under the Wildlife and Countryside Act 1981. Their presence or otherwise should be established prior to development works being undertaken under the provisions of Environmental Policy 15 of the Joint Structure Plan and Policy ENV 2 of the replacement South Derbyshire Local Plan.

6. In submitting details required by condition 2 above, surveys identifying the presence or otherwise of reptiles and botanical species identified as being present in the Initial Ecological survey submitted with the application shall be undertaken and submitted for



consideration by the Local Planning Authority. If protected species are identified, measures shall be suggested for their protection or mitigation measures that would secure the future of the particular species in the locality. The approved protection/mitigation measures shall be implemented prior to development works being commenced on the site.

Reason: In order that protected species may be identified and measures for their protection implemented prior to the development works being generally commenced.

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

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

8. Vehicular access to the land shall be from two points being the extension of the stub road adjacent to Hilton Motors and an additional link from the roundabout junction on The Mease and Avon Way.

Reason: In the interests of highway safety as no other vehicle crossing points are suitable.

9. A crossing point for pedestrians and cycles shall be provided at the junction of The Mease and the Greenway, identified on the master plan accompanying the application, before the occupation of the first dwelling on the site.

Reason: In the interests of providing an integrated pedestrian and cycle link through the Hilton Brook Development.

10. Provision shall be made to the existing pedestrian crossing facility on The Mease between Huntspill Road junction and the Hilton Motors access, and a pedestrian crossing facility shall be provided across the bell-mouth of the access at Hilton Motors.

Reason: In the interests of highway and pedestrian safety.

11. Pedestrian crossing facilities shall be provided for the splitter islands on The Mease at the Avon Way roundabout.

Reason: In the interests of highway and pedestrian safety.

12. Provision shall be made for future vehicular access into the land to the east of the site, to be made from two separate points within the development site which shall finish precisely at the common boundary between the application site and the land to the east.

Reason: In the interests of highway safety it is unlikely that acceptable access into the land to the east from Egginton Road would be feasible due to visibility constraints.

13. No development shall take place until a site investigation to determine whether the land is contaminated and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:

1. A desktop study of the area of the proposed development.
2. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report shall contain recommendations for any remedial or further works at the site.
3. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.

- 4. A remediation validation report along with a signed copy of the attached certificate. This shall be supplied prior to the occupation of any buildings at site.

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

- 14. Playing and incidental open spaces, excluding areas of incidental landscaping and highway verges, shall be provided to a standard of 2.4 hectares per 1,000 population on the following basis:

4 bed dwelling - 3.5 persons

3 bed dwelling - 3 persons

2 bed dwelling - 2 persons

1 bed dwelling - 1 person.

Reason: To ensure an adequate standard of provision, in the interests of amenity.

**Informatives:**

You are advised that it is an offence under the Wildlife and Countryside Act 1981 to disturb nesting birds. Accordingly, in addition to the requirements of Condition 5 above, no trees should be felled in the bird nesting season.

Further to Condition 13 above the following information is provided to assist with the investigation: [standard informative].

It will be necessary to obtain a licence from DEFRA before the Great Crested Newt Mitigation Strategy is implemented.

10/05/2005

**Item** 1.3**Reg. No.** 9/2005/0169/F**Applicant:**

Mark Andrew Earp  
 The Stables Cockshut Lane  
 Melbourne  
 Derby  
 DE73 1DG

**Agent:**

Mark Andrew Earp  
 The Stables Cockshut Lane  
 Melbourne  
 Derby  
 DE73 1DG

**Proposal:** The erection of a steel framed agricultural building at The Stables Cockshut Lane Melbourne Derby

**Ward:** Melbourne

**Valid Date:** 14/02/2005

**Site Description**

The application site is part of a larger area, formerly developed with growing tunnels associated with a market garden enterprise. It lies in open countryside to the west of Cockshut Lane. Some small sheds remain on the site. Semi-mature Poplar trees bound the larger area. Part of the land is presently used for the growing on of trees in containers. There is open storage of pots and bags of compost.

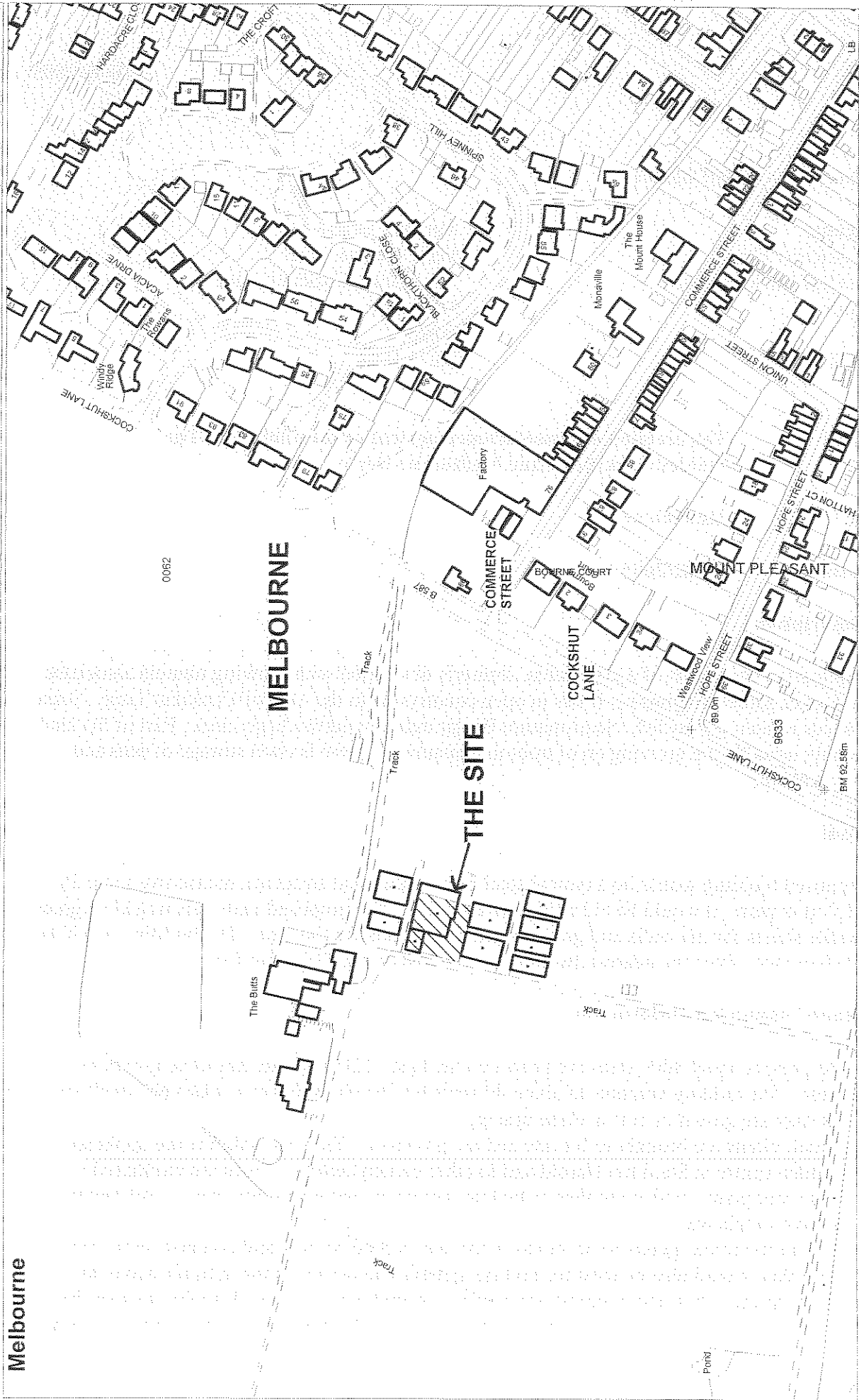
**Proposal**

The proposed building would be a typical steel frame sheet clad structure, measuring some 20.5 m x 22.7 m in plan. It would be 8.2 m high to the ridge. The proposed materials would be green box profile sheets for the walls and grey cement fibre sheets for the roof. The building would be some 140 m away from the nearest dwelling on the east side of Cockshut Lane

**Applicants' supporting information**

- a) At present about 8000 trees are grown on the land. 12000 shrubs are to be grown next year. The holding amounts to about 40 acres but the plants cover a relatively small area as they are grown in pots at close spacing.
- b) Small plants are brought to the site and are grown on. They are sold via the applicant's garden centre at Staunton Harold and to other garden centres. Trees are purchased as bare root plants, which are then potted up, grown on and sold when ready. All plants are grown in this way.
- c) The horticultural goods to be stored in the shed would be pots and compost in the main. The shed would also be used for potting up trees and shrubs in the autumn winter and early spring. Pots and compost are presently stored outside. It is desirable to keep them inside for security and also to prevent nutrients from leaching out of the compost during

9/2005/0169 The Stable  
Cockshut Lane  
Melbourne



Date Plotted 27/4/2005  
9/2005/0169 The Stable  
Cockshut Lane  
Melbourne

Scale 1:2500  
Plot centred at 437952 325507

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heavy rain. The existing potting building is too small and would be demolished as part of the development.

- d) Articulated lorries make deliveries of compost and pots, on about 8-10 occasions per annum. The small plants arrive on 7.5 tonne rigid lorries, at a similar frequency. The plants are taken off site in the applicant's 7.5 tonne vehicle.

The applicant has stated that about 50% of the compost and pots are sold direct through the garden centre. The remainder is used for the potting and growing operation. The reason for the surplus is that bulk buying enables favourable discounts to be achieved.

### **Planning History**

A similar building was erected under permitted development rights following notification in 2002 (9/200/1004/AG). This building is sited to the north of the farmhouse.

### **Responses to Consultations**

The Parish Council has no objection.

Melbourne Civic Society objects because the building would be of inappropriate appearance. If permitted it should be landscaped to hide it from public view.

The Highway Authority has no objection in principle.

### **Responses to Publicity**

11 objections have been received in the following terms:

- a) The notification procedure was inadequate. Individuals should have received letters.
- b) The building would be industrial in character and its primary purpose would be for the storage of goods related to garden centre sales.
- c) An industrial building would be contrary to development plan policy.
- d) The proposal would ultimately lead to the establishment of an industrial park and retailing at the site.
- e) The use would be more appropriate to an industrial area.
- f) The building would be harmful to the character of the area.
- g) There would be overshadowing to nearby dwellings.
- h) Few plants are grown at the site.
- i) The site access is inadequate for large delivery vehicles, with consequent danger to highway users.
- j) The building is not necessary for agriculture.
- k) There could be risk from the storage of hazardous chemicals.
- l) A similar building was erected recently.
- m) Views would be impaired.

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

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4  
 Local Plan: Environment Policy 1 & 5  
 Emerging Local Plan: Policy ENV 3 & 21

## Planning Considerations

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

- The principle.
- Impact on the character and appearance of the countryside.
- Residential amenity.
- Highway safety.

## Planning Assessment

There is clear evidence of the growing operation on the site. A building needed to enable such a business to function and expand would be in accord with the general policies for development away from settlements. However it is apparent that a significant proportion of the imported goods on the site would not be directly relevant to the carrying on of the growing activity at the site. PPS7 advises that local planning authorities should support development that delivers diverse and sustainable farm enterprises. Farm diversification is now an established factor in sustaining the rural economy. The previous market garden business at the application site has ceased and most of its associated buildings have been removed. The proposal would assist the continuation of business there. The storage of more pots and compost than directly needed for the horticultural operation may reasonably be regarded as farm diversification.

Planning permission would be required to use the building exclusively for non-agricultural storage or for the retailing of imported goods.

The site is reasonably well related to the existing group of buildings and occupies land that previously contained growing tunnels. In this context the impact on the general character of the countryside would be acceptable. The building is typical of modern farm structures and as such is not at odds with the estate farmland landscape character of the area.

The nearest dwelling is some 140 metres away. No noisy or smelly operations are proposed. The building would have no demonstrable impact in terms of overshadowing. It is not appropriate to seek to use the planning system to protect private views from dwellings.

On the advice of the Highway Authority the proposal would not cause demonstrable harm to highway safety interests.

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 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.

3. Prior to the first use of the building hereby permitted the access radii, at the Cockshut Lane junction, shall be increased in accordance with details and specifications that shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

4. Prior to the first use of the development hereby permitted, the land in advance of the sight lines measuring 2.4 m x 160 m, insofar as these can be achieved within land controlled by the applicant, shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level.

Reason: In the interests of highway safety.

5. The building shall not be used for the purposes of the storage of goods other than as described in the applicant's letter dated 23 March 2005, or for other goods and materials that are ancillary to the horticultural use of the surrounding land.

Reason: For the avoidance of doubt as the use of a new building for such purpose would be contrary to the relevant development policies for the area and could lead to excessive traffic.

#### Informatives:

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

10/05/2005

**Item** 1.4**Reg. No.** 9/2005/0298/F**Applicant:**

Roger Bullivant Ltd  
Walton Road  
Drakelow  
Burton-on-trent  
Staffordshire  
DE159TZ

**Agent:**

Roger Bullivant Ltd  
Walton Road  
Drakelow  
Burton-on-trent  
Staffordshire  
DE159TZ

**Proposal:** Land levelling works and excavation/removal of concrete structures together with re-instatement of the ground using either onsite or inert imported materials at the former Drakelow Power Station Walton Road Drakelow Burton-on-trent

**Ward:** Linton

**Valid Date:** 11/03/2005

**Site Description**

The site is vacant land which was formerly part of Drakelow power station. The site is split into four parcels of land, all the surrounding land has already been or is the subject of a planning permission for similar levelling works. The site is well screened from Drakelow Road by the existing belt of trees.

**Proposal**

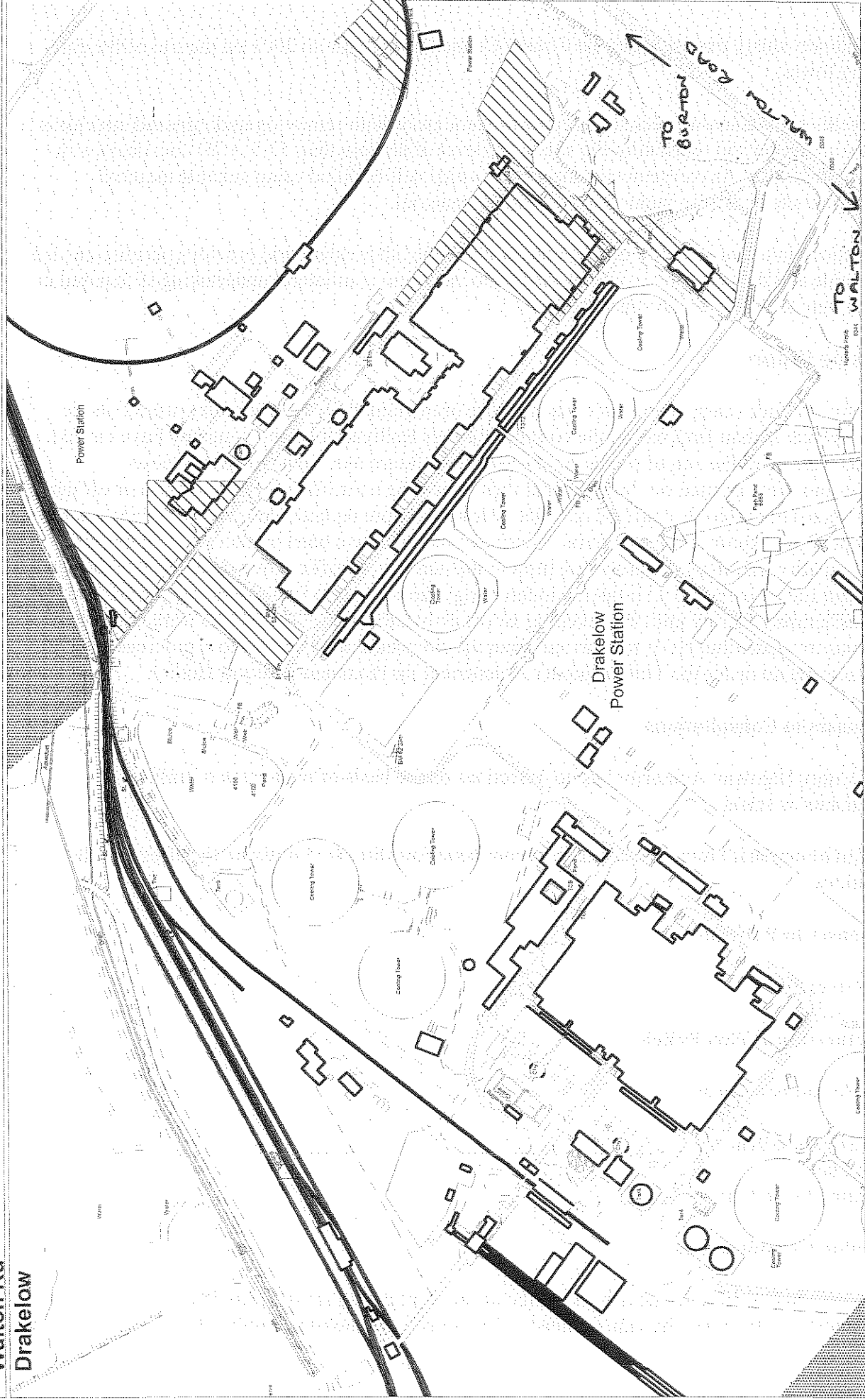
The applicant seeks consent to undertake engineering operations to level the land, this will involve the excavation and removal of underground concrete structures and re-instatement of the ground using either existing on site material or inert imported material. Together the four areas of land under consideration add up to approximately 4 hectares.

**Applicants' supporting information**

The background to this application relates to a number of permissions granted over nearly four years on the site for a similar purpose. A series of permissions have been granted progressively over the site allowing it to be remediated in a logical and comprehensive way. This application covers most of the remaining area not yet covered by this work, amounting to about 4 hectares. It will result in the continuation of this work in a holistic, consistent, logical and comprehensive way. The intention is that the finished level will conform to that referred to over the remainder of the site, namely not less than 52.5 AOD. The area the subject of the application lies outside the woodland covered by TPO 122 designation to the front of the site and excludes



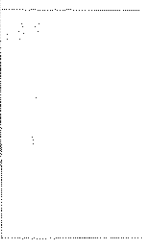
**9/2005/0298/M former Drakelow Power Station  
Walton Rd  
Drakelow**



Date Plotted 27/4/2005  
9/2005/0298/M former Drakelow Power Station  
Walton Rd  
Drakelow

Scale 1:5000  
Plot centred at 423493 319828

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the land previously treated under the County Council permission in 2001 on the site of the first cooling tower.

Under this application we seek to continue the process of both removing underground structures as they are found and reinstating the site to the level of not less than 52.5 AOD consistent with other permissions. As on previous consents the voids will be filled using suitable material existing on site or via the importation of exempt material.

Restrictions in terms of traffic movements as under the other extant and previous permissions are acceptable and the company would be willing to enter into a unilateral undertaking if required in similar vein to that of 21<sup>st</sup> August 2003.

### **Planning History**

Over the last four years a series of consents have been granted for land levelling works on the former power station land within the control of Roger Bullivant Ltd, the company have carried out this work with the aim of preparing the land for a future use. Some of the previous permissions were granted on the basis that there would be no traffic movements onto or off the site as removed materials could be recycled. However more recently consents have allowed for the import and export of inert material. These permissions have been granted on a temporary basis and are conditional on an overall limit to the number of traffic movements. In 2003 Roger Bullivant Ltd entered into a unilateral undertaking agreeing not to implement any permission for a manufacturing facility until the levelling works associated with 9/2003/0815 were completed. This was to ensure that HGV trips to and from the site would not exceed those previously found to be acceptable under the Traffic Impact Assessment for the manufacturing facility.

### **Responses to Consultations**

The County Highway Authority has no objections on the basis of restriction of traffic movements as stated.

The Environmental Protection Manager recommends conditions to mitigate the effects of the operations.

### **Responses to Publicity**

None received.

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

The relevant policies are:

Joint Structure Plan:

Local Plan:

Emerging Local Plan: Policy T1

### **Planning Considerations**

The main issues central to the determination of this application are the principle of the development in the area, the visual impact of the works and highway implications.

## Planning Assessment

The applicant seeks to re-form an area of land to facilitate future development. Whilst the site is located within the open countryside it is previously used land that formed part of the power station complex at Drakelow. Therefore, in this case, notwithstanding the planning policies that would otherwise restrict development in the countryside, the proposal is, acceptable in principle.

The site is screened on three sides by trees and on the other side is the power station complex. The proposal relates to the re-modelling and levelling of land and so it would not be detrimental in the long term to the appearance of the area.

The Highway Authority has no objections to the proposals on the basis of traffic movements being restricted in accordance with details set out in a letter submitted by the Applicant and in accordance with a unilateral undertaking ensuring that the manufacturing facility, which has consent, is not constructed until after the levelling works have been completed. Both these measures can be required by condition.

## Recommendation

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

1. Notwithstanding the originally submitted details, this permission shall allow for the movement of excavated material off site and inert infill material on site up to 30th June 2006. After 30th June 2006 there shall be no movement of materials on or off the site.

Reason: In order that the Local Planning Authority may retain control over the development in the interests of highway safety and amenity generally.

2. The number of vehicle movements related to the development hereby permitted shall not exceed those set out in David Tucker Associates letter to J. Duffield ESq of 3rd April 2001 ref. DAT/SJT/2011.

Reason: In order that the Local Planning Authority may retain control over the development in the interests of highway safety and amenity generally.

3. The hours of operation shall be limited to 8.00 to 18.00 Monday to Friday, 8.00 to 13.00 Saturday and no working at all on Sundays or Public Holidays.

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

4. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

5. No development shall take place until the applicant has submitted to and had approved by the Local Planning Authority a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 to ensure that any unimplemented planning permission for manufacturing is not implemented until all the engineering works permitted by this planning application are completed.

Reason: In the interests of highway safety.

6. Prior to its use at the site, the source, composition and suitability of any waste to be used in the levelling process shall be confirmed in writing to the Local Planning Authority.

Reason: To ensure that all material used does not cause pollution.

7. Dust suppression equipment shall be available at all times for use in the leveling process.

Reason: To ensure that no dust escapes from the site.

10/05/2005

**Item** 1.5**Reg. No.** 9/2005/0388/NM**Applicant:**

Orange PCS Ltd  
 St James Court  
 Great Park Road  
 Almondsbury Park Bradley Stoke  
 Bristol  
 BS12 4QJ

**Agent:**

Matthew Grant  
 Marconi APT  
 Technology Drive  
 Beeston  
 Nottingham  
 NG91LA

**Proposal:** The erection of a 10 metre high telecommunications mast together with associated equipment cabin on the Highway verge at Egginton Road Etwall Derby

**Ward:** Etwall

**Valid Date:** 24/03/2005

This application is brought to Committee at the request of Councillor Lemmon. The report has been updated to reflect comments received from the applicants and the letters that have been received since the last Committee meeting.

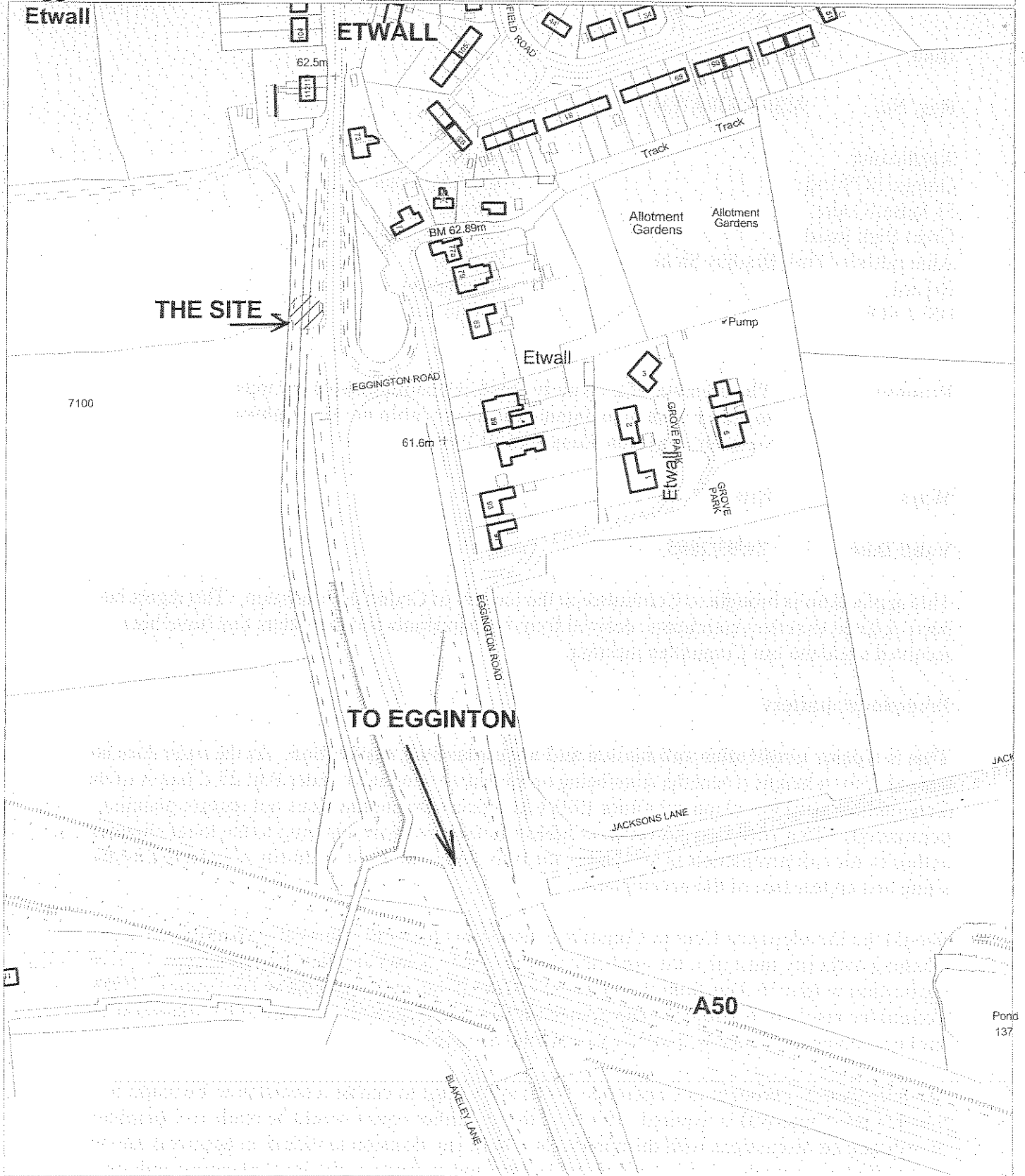
**Procedural matters**

**This is a prior notification submission and not a planning application.** As the mast does not exceed 15m in height it benefits from being permitted development under Part 25 Class A of the General Permitted Development Order 1995 (i.e. a development that does not require planning permission). This provision, however, is subject to the developer applying to the local planning authority for a determination as to whether the prior approval of the authority is required for the siting and appearance of the development.

Should the Development Control Committee determine that prior approval is required the local planning authority must give the applicant written notice of this and then determine the application within 56 days from the submission date of the prior notification application. If the Committee resolves to refuse the application then it should do so by 18 May 2005, otherwise the applicant company would be free to carry out the development.

The application is brought to Committee at this early stage to enable a decision to be made on whether prior approval is required. If it were then a further report would be made to Committee on subsequent discussions with the applicants. (N.B. any decision to refuse an approval can only be justified on grounds of siting and/or appearance and in doing so the local planning authority should take into account the obligations on code system operators to provide a service and the technical constraints upon network development having first explored with the operator the possibility of modifying the siting and/or appearance of the proposed development).

9/2005/0388/M Highway Verge  
Egginton Road  
Etwall



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Scale 1:2500 Date Plotted 27/4/2005

Plot centred at 426910 330911

9/2005/0388/M Highway Verge  
Egginton Road  
Etwall



Pond  
137

## Site Description

The site is the highway verge on the west side of Egginton Road. The closest dwelling is some 54 metres from the proposed mast; others are between 65 – 80 metres from the site. The highway verges are landscaped following the construction of the A50.

## Proposal

A photomontage that accompanies the application indicates that the installation would comprise a monopole with a wider head where the antennae are to be installed. At the base of the pole would be an equipment cabin measuring 1.25m wide x 1.25m high x 0.8m deep. The mast would be coloured grey and the cabin would be dark green.

## Applicants' supporting information

The mast would be 10 metres high and there are lampposts some 7.5 metres high in the vicinity of the proposal. The applicants state that the mast is necessary to ensure that there is a satisfactory service to the south of the village and for users of the A50.

An ICNIRP Declaration has been submitted confirming that the proposal is designed in full compliance with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionising Radiation Protection, as expressed in EU Council recommendation of 12th July 1999 "on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)".

Information accompanying the submission indicates that at 'the zone of greatest exposure' (93 metres from the mast) the level of emission is 0.12% of the ICNIRP limits. To show how the emissions degrade over distance the illustration in the document shows that at 50 metres the emissions are 0.10% at 100 metres 0.11% and at 200 metres 0.03% of the limits.

The applicants have submitted survey details that show a hole in the coverage in this part of the district to ensure that there is a satisfactory signal to meet the latest 3G technology that they are obliged to provide under the terms of the licence issued by the government. The introduction of the new mast would fill this hole in the coverage.

The applicants state that they have examined alternative sites indicated on the mast register produced by the authority. In this case they examined three sites – the Severn Trent Water Sewage works, the mast at Sandy Pits Lane and the proposed site. The Severn Trent site would require access over third party land consent for which has not been forthcoming. The applicant also states that this site lies close to the proposed cycle way on the old railway. The Sandy Pits Lane site does not give the required coverage (this is also operated by the applicants).

The applicants have carried out pre application consultations with officers here as well as the Parish Council and Councillors Lemmon and Hood. Officers indicated that this location might be acceptable subject to the consideration of the submission when submitted. The Parish Council considered that the mast should be sited further to the south. The applicant's state they have considered this request but moving it would require an increase in the height of the mast to provide the same coverage. The applicant's state that there are no schools in close proximity to the site nor, they state, is there any airfields within 3 Km. [They have since been advised of the existence of Jack Horner's Day nursery and the Derby Airfield to the southwest, and have sent both a formal consultation letter.]

The following information has been received from the applicant in response to a request for additional information as to why the alternative site at the sewage treatment works to the north is not preferable.

Orange's radio planner has confirmed that due to loss of height (lower land levels) the mast would have to be increased in height to a minimum of 20m if sited within the sewage works. Further investigations would need to be done to confirm the actual height, but as the land is 10m lower, this is likely to be the minimum required. This would also involve upgrading the equipment from a micro cell to a macro cell (as there are no 20m high micro design options) which would include 3 or 6 antennas, a thicker (and taller structure), dish(es) to link the mast into the wider Orange network (the proposed site would use a BT lease line) and an associated equipment compound and cabinets. To get line of sight to the wider network and even higher mast may also be required.

In addition, contact has again been made with "Fields & Towers", the agents for Severn Trent Water who have confirmed that the surrounding land is third party owned. Due to the proximity of housing of this site, Fields & Towers has also passed the decision on whether this site (in principle) could be used to Severn Trent Water. This is likely to take over a week to get a response. Severn Trent Water have a policy of not allowing telecommunication on land that is within in "close proximity" to housing, although no distance is set, it may be that Severn Trent will not permit equipment on this site anyway especially with the height required in this instance.

Notwithstanding the ownership issues and Severn Trent Water's agreement for equipment at the site, the applicants still consider that a 20m high macro installation will have a far greater visual impact than the 10m high micro street works option at the proposed location. It should also be noted that there are houses to the north of the site, which no doubt would be concerned about a 20m+ high mast in close proximity to them.

Since the above information was received, an e-mail has been forwarded to the authority confirming that Severn Trent Water would be unwilling to allow a mast on its land as the site is considered by Severn Trent Water to be too close to houses.

### **Planning History**

None

### **Responses to Consultations**

Etwell Parish Council and states that members of the public were present and widespread disquiet was both expressed and reported amongst the residents of the houses on the road opposite the proposed site. Their criticisms were based on the precautionary health principle, the unsightliness of the proposed installation and its potential as a road safety hazard.

The Parish Council was disappointed that Marconi/Orange had not followed up its suggestion that the site be moved further from the houses.

The Parish Council noted that the installation is within 3 km of an airfield despite declaration on the application that it is not. In view of this the Planning Authority should make absolutely certain that all of the other stipulations required under the planning and health and safety provisions covering this application are adhered to.



## Responses to Publicity

At the time the first report was prepared, 4 letters had been received objecting to the development. Since then a further 6 individual letters have been received together with 26 copies of a round robin letter from households in the Etwall and Hilton area. The objections are summarised as follows and have been updated to reflect the receipt of the additional letters:

- The mast is not required – there is already excellent coverage in the village with Orange being the best. There is no need for the mast; it is only required to enhance a service whereas there was a case in 2000 where an inspector ruled that just enhancing a service was different from establishing a full macro cell and therefore not justified. The technical justification for the mast is not clear.
- Nobody in the immediate area has been consulted; the Parish Council was but did not notify residents in the locality.
- The microwaves from the equipment are likely to be detrimental to public health; even the perception of risk can be a material consideration as has been demonstrated in court cases and Kent County Council does not allow masts on Council property because of health concerns. One letter is accompanied by a technical explanation of micro cells that sets out the possible limitations on permitted development. A copy of the document is available for inspection on the file.
- The mast would be visually intrusive in a semi rural area. The site is not well sited as stated by Marconi; it is close to houses on Egginton Road and the whole of a Council housing estate.
- It would be too close to schools and hazardous to children's health especially the Jack Horner's Day Nursery to the south west – the Stewart report stated that small children may be at greater risk. Little Jack Horner's Day Nursery should be advised of the outcome so that they can advise all parents.
- It should be sited away from residential properties, the alternative sites have not been properly considered and the search does not seem exhaustive. Why should a site being close to a cycleway be a reason for discounting a site? The sewage station is a better option as it is sited further away from homes.
- There is no proof that these masts are safe and no more should be erected until it can be shown that children are not at risk. There is no confidence that the technology is safe and it took this country a very long time to realise asbestos was a dangerous substance. All structures should be sited well away from children including those in nearby houses of whom there are many in the houses close to the site. Their skulls are still developing.
- It is believed that no approach has been made to Severn Trent Water to see if the mast could be sited at the sewage works.

## Structure/Local Plan Policies

The relevant policies are:

Local Plan: Community and Facilities Policy 4

Emerging Local Plan: Policy C7

## Planning Considerations

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

- Visual intrusion
- No suitable alternative sites including mast sharing

## Planning Assessment

Compared to most mast types the street lamp option is considered to be one of the least intrusive options. It would clearly have a different appearance to the street lamps in the vicinity, as it would be some 2.5 metres taller than them. However, being within a line of street lamps, the proposed site is a reasonable location for the mast. Officers have explored with the applicants the alternative suggested by the Parish Council of moving the mast further to the south. It appears that the mast would need to be at least 15 metres high, would be outside the speed control zone for the village and closer to the Day nursery. The company has argued that the increase in height would make the mast more prominent.

The applicants considered two other alternative sites. The first was at the sewage works, as detailed above. The second is the company's existing mast at Sandypits Lane that currently serves the village and its environs for 2G and below services.

Because 3G services operate on much smaller cells, the fact that existing services have good signal strength may not be relevant. The company is upgrading existing sites where possible to minimise the need for new sites but it is inevitable that new sites will be necessary to fill in the holes within the network, as is the case here.

With regards to health issues, PPG8 states that it is "*... the Government's firm view that the planning system is not the place for determining health safeguards. It remains central government's responsibility to decide what measures are necessary to protect public health. In the Government's view, if a mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them.*"

If the Committee were minded to state that prior approval is necessary, then it would be necessary to ensure that a final decision is issued before 18 May 2005. If minded to withhold approval, then the reasons can only be to the siting and/or appearance within the operational constraints of the system operators. To say that the mast would represent an unacceptable visual intrusion could not be supported by officers.

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

PRIOR APPROVAL is not required and the siting and appearance of the equipment is acceptable.

10/05/2005

**Item** 1.6**Reg. No.** 9/2005/0398/M**Applicant:**

Mr J Mayers  
 L M Blast Cleaners Cofton House  
 Trent Lane Kings Newton  
 Derby  
 DE73 1BT

**Agent:**

The Burton Emery Partnership  
 83a Mount Road  
 Hinckley  
 Leicestershire  
 LE10 1AE

**Proposal:** The demolition of the existing dwelling and erection of 17 apartments including relocation of existing vehicular access at 147 Burton Road Woodville Swadlincote

**Ward:** Woodville

**Valid Date:** 30/03/2005

**Site Description**

This rectangular site, some 27m wide by 45m deep is on the west side of Burton Road on the north side of the entrance to Woodville Nursing Home. It is occupied by a substantial detached house at the front of the site with garden to its south side and to the rear. There is an immediate drop in levels from the roadside into the site and beyond this the site is relatively level. There is a line of seven young to middle aged sycamores running parallel to the first half of the southern boundary, which are highly visible within the neighbourhood and have recently been made the subject of a tree preservation order. Beyond the rear boundary is the nursing home and a dwelling house and beyond the southern boundary are two further dwelling houses. Buildings in the vicinity are mainly two storeys.

**Proposal**

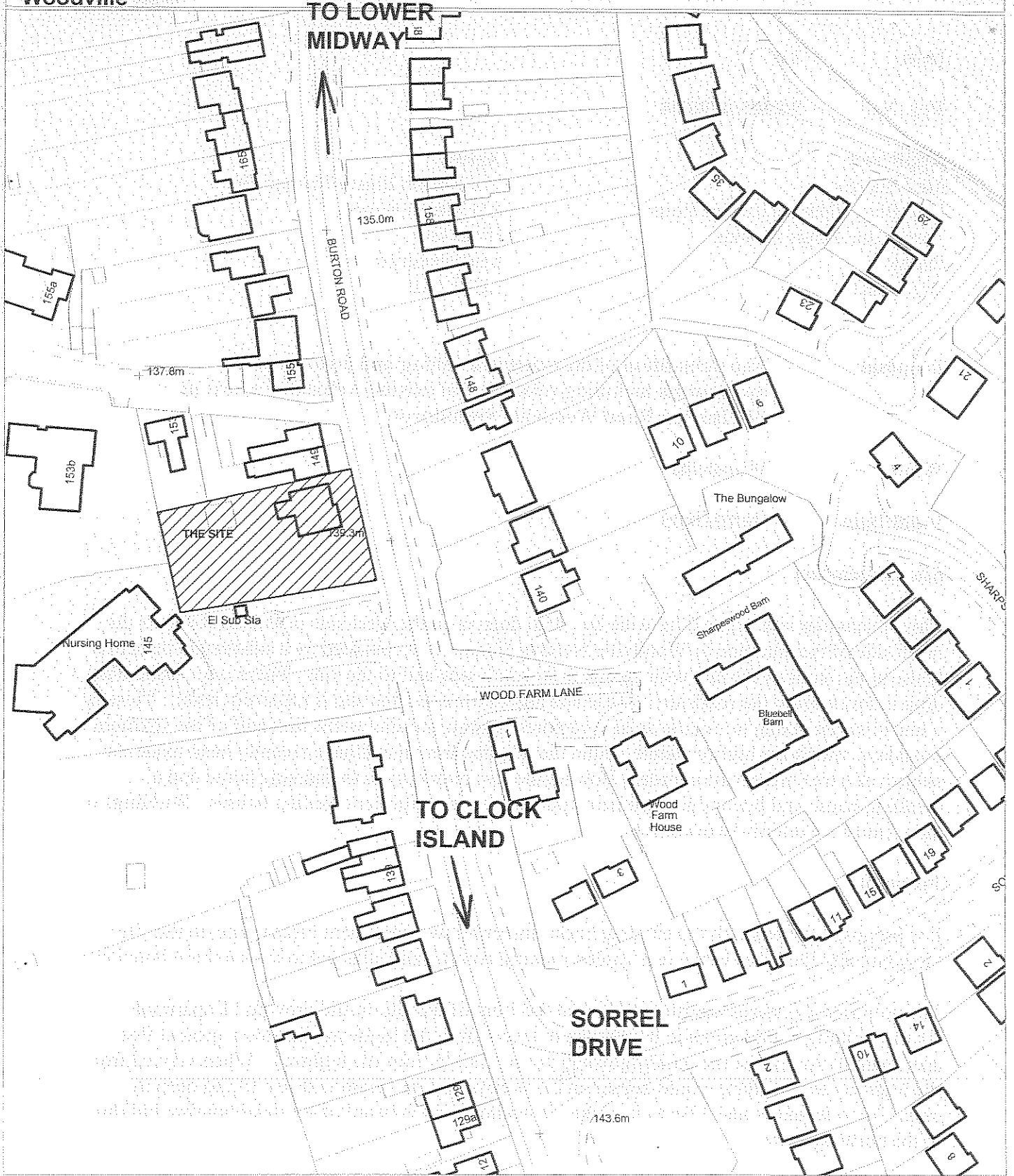
It is proposed to demolish the existing house and build two apartment blocks, one on the site of the house and the other in the rear garden running parallel and adjacent to the southern boundary.

The proposed 3½ storey apartment block at the front of the site would provide 11 apartments. As the building would straddle the change in levels from the highway, the lower ground floor apartment at the rear of the building would not be visible from the highway. When viewed from the highway the building would appear as 2½ storeys and be 15.8m wide by 13.2m deep by circa. 7m to its eaves and 13m to its ridge. It would be set forward of the neighbouring building to the north by 2.2m.

The proposed 3-storey building to the rear would provide 6 apartments. It would be 16m wide by 8.2m deep by 8m to the eaves and 12.7m to the ridge.

There would be 26 off-street parking spaces.

9/2005/0398/M 147 Burton Road  
Woodville



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Scale 1:1250 Date Plotted 27/4/2005

Plot centred at 431274 319669

9/2005/0398/M 147 Burton Road  
Woodville



## **Planning History**

A planning application was recently withdrawn for a development of two apartment blocks, similar to this proposal apart from the rear block being larger and providing 7 apartments. It would have been 18.4m wide by 8.2m deep by 8m to the eaves and 12.7m to the ridge. The application was withdrawn due to objection being raised by the Highway Authority over a lack of adequate parking and manoeuvring space.

## **Responses to Consultations**

The comments of the Highway Authority are awaited.

The comments of the Primary Care Trust and Education Authority are awaited however on the previous application they requested a contribution of £444 per unit to local medical facilities and a contribution of £31,536 towards local school facilities.

The environmental health officer comments that the land has been used for quarrying of sand and gravel and is also identified as ground of unknown fill and recommends that the site is investigated for contamination and any ground remedial works are undertaken.

## **Responses to Publicity**

No letters of objection had been received at the time of writing this report, however, five letters of objection were received on the last application which are summarised as follows:

- The development projecting forward of the existing roadside building line would affect the line of sight for neighbouring properties and those emerging from the site.
- An additional access would increase hazards on the highway.
- The covered access to the site would encourage larger vehicles to park on the highway affecting visibility sight lines.
- The buildings would be large and out of scale and character with neighbouring buildings.
- Possible disturbance to neighbours causing subsidence.
- Noise, dust and disturbance during construction.
- Insufficient parking off-street parking which would result in parking on the public highway.
- Unacceptable overbearance and loss of privacy for neighbouring residents.
- Inadequate foul drainage.
- Possibility of the presence of bats.
- Additional pressure on existing medical services.
- Add to congestion at the Clock Island.
- Increase in noise levels in an otherwise quiet area.

## **Structure/Local Plan Policies**

Joint Structure Plan: General Development Strategy Policy 1, 2 and 3 and Housing Policy 3, Transport Policy 4.

Adopted Local Plan: Housing Policy 4 and 11

Revised Deposit Draft Local Plan: H1, T1, ENV21, C3 and C5.

Housing Design and Layout - Supplementary Planning Guidance.

## Planning Considerations

- Amenity for existing residents.
- Appropriate scale and character.
- Adequate access and parking
- Impact on the protected trees

## Planning Assessment

The site falls within the definition of previously development land as defined in PPG3 and is within the Swadlincote Development Boundary. It therefore complies with Policy H1 of the emerging Local Plan and is acceptable in principle. A higher density is also appropriate as it is close to a main bus route.

With regard to safeguarding neighbours' amenity, the layout has been amended to ensure compliance with the Councils housing layout and design guidelines to avoid loss of privacy and overbearance. The proposal is now acceptable in this regard.

The proposed roadside development has been designed to reflect the appearance and character of the existing dwelling, albeit being about 1m higher and some 4m wider. It would project forward of the existing building line but not to a great extent and consequently is unlikely to cause undue harm to the appearance of the street scene. The apparent increased mass of the building when compared to the existing would be largely obscured by the tree screen and would therefore be acceptable.

Whilst three-storey development is new to the area, the rear apartment block would be at a lower level and some 18.6m from the public highway. In addition, it would be obscured to a large extent from the highway by the mature sycamore trees. It would also accord with the required separation distances between proposed and existing dwellings. On this basis it would be difficult to substantiate a material degree of harm arising from the proposal.

The issue for the Local Highway Authority has been the adequacy of the car parking layout. The current scheme shows 1.5 spaces per dwelling thus meeting the required standard. The views of the Local Highway Authority are awaited.

The proposed rear apartment building would be 0.5 to 1m closer to two of the protected trees at the end of the group than would normally be recommended. The overall amenity value of the protected group however is unlikely to be affected and the majority of the area around the two trees in question would remain undisturbed thus establishing their medium to long-term survival. Three parking spaces would fall within the canopy of the trees and the applicant has indicated that these would be achieved with a 'no dig' system including geotextile membrane and porous surfacing. The proposal therefore is acceptable in this regard.

As the proposal exceeds five units and in view of the consultation replies contributions to local medical and school facilities is justified. In addition, an in lieu of payment of £17,000 towards public open space provision has been negotiated.

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

- A. Grant delegated powers to the Head of Planning to deal with any new material planning objections received by 12<sup>th</sup> May 2005
- B. Subject to A. and the applicant entering into an agreement or offering a unilateral undertaking under Section 106 of the Town and Country Planning Act to secure the payment of financial contributions towards local medical, education and public open space provision then **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 commence on site in connection with this approval until samples of materials for the external elevations of the buildings have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.

Reason: To ensure the materials are appropriate to safeguard the appearance of the area.

3. Gutters, downpipes, fascias and barge boards shall have a black finish.

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

4. No development shall commence on site in connection with this approval until large scale drawings of the external fenestration (including the projecting bay window) and doors, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

Reason: To ensure the external windows and doors are constructed to achieve the appearance of those shown on the approved drawings in the interests of the appearance of the building and the area.

5. Notwithstanding any details submitted, no development shall commence on site in connection with this approval until precise details of the type, size and position of the proposed rooflights on the front elevation have been submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be a conservation type fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

6. 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.

7. No development shall commence on site in connection with this development until appropriately scaled details of the front metal boundary railings have been submitted to and approved in writing by the Local Planning Authority and the approved railings shall be erected before the development is first occupied.

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

8. No development shall commence on site in connection with this approval until appropriately scaled construction details including cross sections of the eaves, verges and projecting string courses have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: To ensure these features are constructed to achieve the appearance of those shown on the approved drawings in the interests of the appearance of the building and the area.

9. No development or other operations shall commence on site until a scheme (herein after called the approved protection scheme) which provides for the retention and protection of trees which are the subject of Tree Preservation Order 236, has been submitted to and approved in writing by the Local Planning Authority; no development or other operations shall take place except in complete accordance with the approved protection scheme.

Reason: To ensure that the trees protected in the interests of safeguarding the amenities of the area.

10. No operations shall commence on site in connection with the development hereby approved until the tree protection works required by the approved tree protection scheme are in place.

Reason: To ensure the trees are protected in the interests of safeguarding the amenities of the area.

11. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved tree protection scheme.

Reason: To ensure the trees are protected in the interests of safeguarding the amenities of the area.

12. Protective fencing shall be retained intact for the full duration of the development hereby approved, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To ensure the trees are protected in the interests of safeguarding the amenities of the area.

13. The parking spaces within the canopy area of the protected trees shall be achieved with a 'no dig' system including geotextile membrane and porous surfacing in a manner to be first agreed to the satisfaction of the Local Planning Authority.

Reason: To ensure the protected trees are safeguarded in the interests of safeguarding the amenities of the area.

14. No development shall commence on site in connection with this approval until details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed levels.

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



15. No development shall commence on site in connection with this approval until a site investigation to determine whether the land is contaminated has been submitted for approval by the Local Planning Authority and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:
1. A desktop study of the area of the proposed development.
  2. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
  3. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
  4. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

Reason: There is historical evidence of filled ground of unknown composition at the property. There is the possibility therefore that contaminants, such as landfill gas, may be present in the soil.

16. No dwelling shall be occupied prior to adequate parking space to service it and any previously occupied dwellings has been laid out and surfaced in accordance with the details to be agreed with the Local Planning Authority.

**Informatives:**

It is reported that bats may frequent/inhabit the site. It is an offence to kill or damage or disturb bats or their roosts. If bats are found you are advised to inform English Nature, Manor Barn, Over Haddon, Nr. Bakewell, Derbyshire, DE45 1JE. Practical advice on how to protect/relocate any bats may be obtained from Malcolm Hopton, Derbyshire Bat Group, 9 Ashton Close, Mickleover, Derby, DE3 5QD, (Tel. 01332-511427).

In connection with the remedial report into possible contamination you should note the requirements of the Pollution Control Officer (attached).

Dear Sirs,  
I am writing to you regarding the matter of the late Mr. John Doe, who passed away on the 15th of January, 2023. I am the executor of his will and I am in possession of the original will and the necessary documents to probate it.

I have reviewed the will and it appears to be valid and in accordance with the law. I am therefore applying to the court for an order to probate the will and to appoint me as the executor of the estate.

I have also reviewed the assets of the estate and I am in possession of the necessary documents to transfer the assets to the beneficiaries named in the will. I am therefore applying to the court for an order to transfer the assets to the beneficiaries.

I am enclosing herewith a copy of the will and the necessary documents to probate it and to transfer the assets to the beneficiaries. I am also enclosing a copy of this letter for your information.

I am sure that you will find this information helpful and I am sure that you will be able to assist me in my duties as executor of the estate.

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10/05/2005

**Item** 2.1**Reg. No.** 9/2005/0144/F**Applicant:**

Mr Mrs Bowler  
 Suffield Manor  
 Sutton-on-the-hill  
 Ashbourne  
 Derbyshire  
 DE65 5JB

**Agent:**

Alan Taylor  
 Talbot Associates Limited  
 Bretby Business Park  
 Ashby Road  
 Burton On Trent  
 Staffordshire  
 DE15 0YZ

**Proposal:** The erection of a replacement dwelling and detached garage at Cropper Farm Sutton-on-the-hill Ashbourne

**Ward:** North West

**Valid Date:** 07/02/2005

This application has been brought to Committee at the instruction of Councillor Bale

**Site Description**

The site comprises a cottage, brick out buildings and various small farm buildings. The cottage is set close to the lane, hedges enclose the north and east boundaries. The south and west boundaries are open forming part of a field that has hedges along its boundaries. The applicant owns the rest of the field as well as another that lies to the north of the application site.

**Proposal**

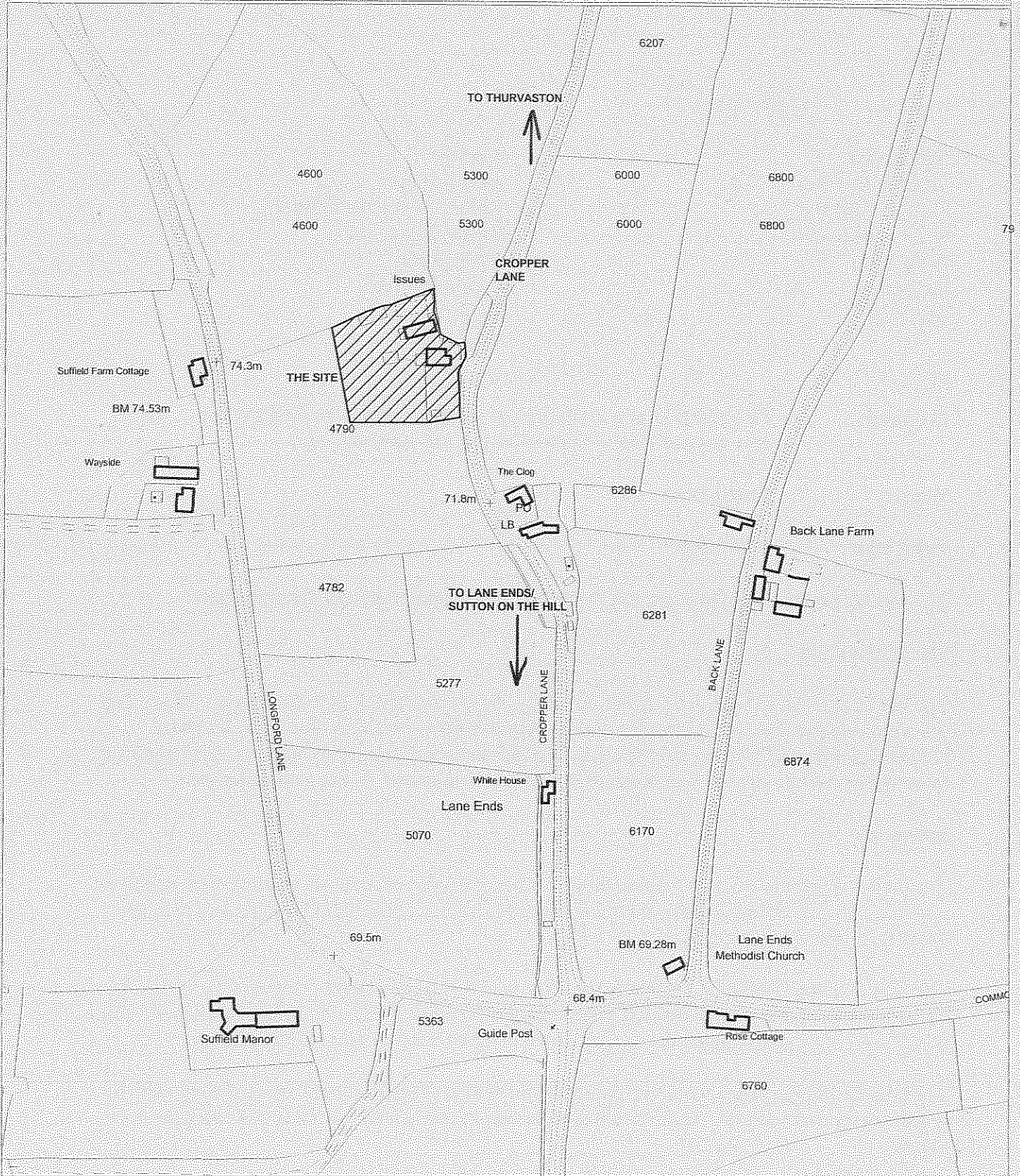
The proposals would involve the demolition of the existing cottage, two existing steel and sheet outbuildings and various small garden buildings. A brick and tile farm building and an open sided barn would be retained.

The new dwelling would be located to the south and east of the existing cottage in an open part of the field. It would be a two and a half storey structure constructed in brick and tile with stone details. A single storey living area would be attached to the east side of the building.

A new 4-car garage block would be constructed towards the north boundary of the site with a garden store attached to it. Again this would be constructed mainly in brick and tile with stone lintels.

Access to the site would be from the existing access on Cropper Lane. Existing hedges and trees would be retained as part of the proposals.

9/2005/0144/F Cropper Farm  
Sutton on the Hill



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Scale 1:2500 Date Plotted 27/4/2005

Plot centred at 423554 334832

9/2005/0144/F Cropper Farm  
Sutton on the Hill



### **Applicants' supporting information**

In support of moving the proposed dwelling away from the site of the existing dwelling, the applicant has commented as follows:

- a) There is insufficient room between the existing dwelling and the retained barn to allow the construction of a modern dwelling. It would be necessary to get large vehicles into the site to empty the septic tank etc. Cropper Lane is narrow and there is a need to set the access back in order to allow vehicles to pull off the lane
- b) The existing brick outbuilding is not large enough to serve as a garage and the cottage has a small mature garden
- c) The proposed design allows for the retention of the existing hedges and trees as the dwelling would be sited well clear of them. The garage and dwelling have been designed as a group so that from the west it appears very much as a group that can be screen with fencing and landscaping. From the east the existing hedges and trees would help to screen the group.
- d) The building configuration will retain the traditional style grouping and will not strike a discordant note visually when completed and landscaped.

### **Planning History**

No recent planning history.

### **Responses to Consultations**

There has been no response from the Parish Council

The County Highway Authority has no objection subject to the proposal being for a replacement dwelling.

The Environmental Protection Manager has drawn attention to the need for a contamination study to be undertaken should the development be permitted.

### **Responses to Publicity**

None

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

The relevant policies are:

Joint Structure Plan: Housing Policy 6,

Local Plan: Housing Policy 8

Emerging Local Plan: Policy H1 (D) (IV), H7.

## **Planning Considerations**

The main issue central to the determination of this application is whether the proposed replacement dwelling would be in accord with the requirements of the Development Plan for such development and if not would it be a new dwelling in the countryside for which special justification is required.

## **Planning Assessment**

The proposed dwelling is to be sited in the middle of a field where the policies in the Development Plan require that such buildings should reflect the footprint, bulk and scale of the original dwelling be substantially located on the same site as the old and that there is no increase in the number of dwelling units. The design and appearance of the dwelling should also be in keeping with the character and appearance of the area.

The dwelling would be sited in the adjacent field and would be of a form and bulk considerably in excess of the original dwelling. The design of the building respects the local tradition of brick and tile construction but that is not sufficient to outweigh the harm that would be caused to the character and appearance of the area that would be caused by the siting of the dwelling away from the site of the original modest cottage.

In these circumstances, the proposal falls to be considered as a new dwelling in the countryside where there is a requirement for such development to be necessary for the operation of an established rural business. There is no such justification in this case and the proposal is therefore contrary to the Development Plan.

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

## **Recommendation**

**REFUSE** for the following reason:

Although submitted as an application for a replacement dwelling, the proposal is to resite the dwelling away from the footprint of the original dwelling. This is contrary to the provisions of Housing Policy 8 of the adopted South Derbyshire Local Plan and Policy ENV 21 of the emerging replacement South Derbyshire Local Plan. Accordingly the proposal falls to be considered under the terms of the Derby and Derbyshire Joint Structure Plan Housing Policy 6, Housing Policy 8 of the adopted South Derbyshire Local Plan and Policy H7 of the emerging replacement South Derbyshire Local Plan. All these require that new housing development in the countryside should be necessary to the operation of an established rural business. If this fundamental requirement of the policies is met, then the policies go on to set criteria for the design and appearance of the dwelling. In this case there is no such justification for the dwelling and the proposal is therefore contrary to the above policies and would represent an unwarranted intrusion into the countryside to the detriment of the rural character of the area.