

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

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

1. PLANNING APPLICATIONS

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

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

1. The issues of fact raised by the Head of Planning Services' report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
1. Further issues of principle, other than those specified in the report of the Head of Planning Services, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
2. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Item **1.1**

Reg. No. **9/2007/1152/M**

Applicant:

Mr John Bowler
John Bowler (Agricultural) Ltd
Ivy Court
Etwall
Derby
DE65 6JG

Agent:

Mr Ian Pick
Ian Pick Associates Ltd
Unit 3
Driffield
YO25 6QP

Proposal: **The erection of a 6000 bird free range organic egg production unit (amended scheme 9/2006/0413/M) land off Castle Way Willington Derby**

Ward: **Willington/Findern**

Valid Date: **03/10/2007**

Reason for committee determination

Councillor Ford has requested that these applications be brought before the Committee as local concern has been expressed about a particular issue and that the Committee should consider unusual site circumstances. A report on an application for a machinery building on the site will be brought to a subsequent committee – discussions are on going with the applicant.

Site Description

The site comprises an area of flat agricultural land. Hedges interspersed with trees enclose the site. There is another hedge within the site that runs through it. A tree is located between the two production units that would be felled if the development were permitted.

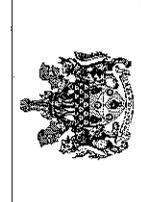
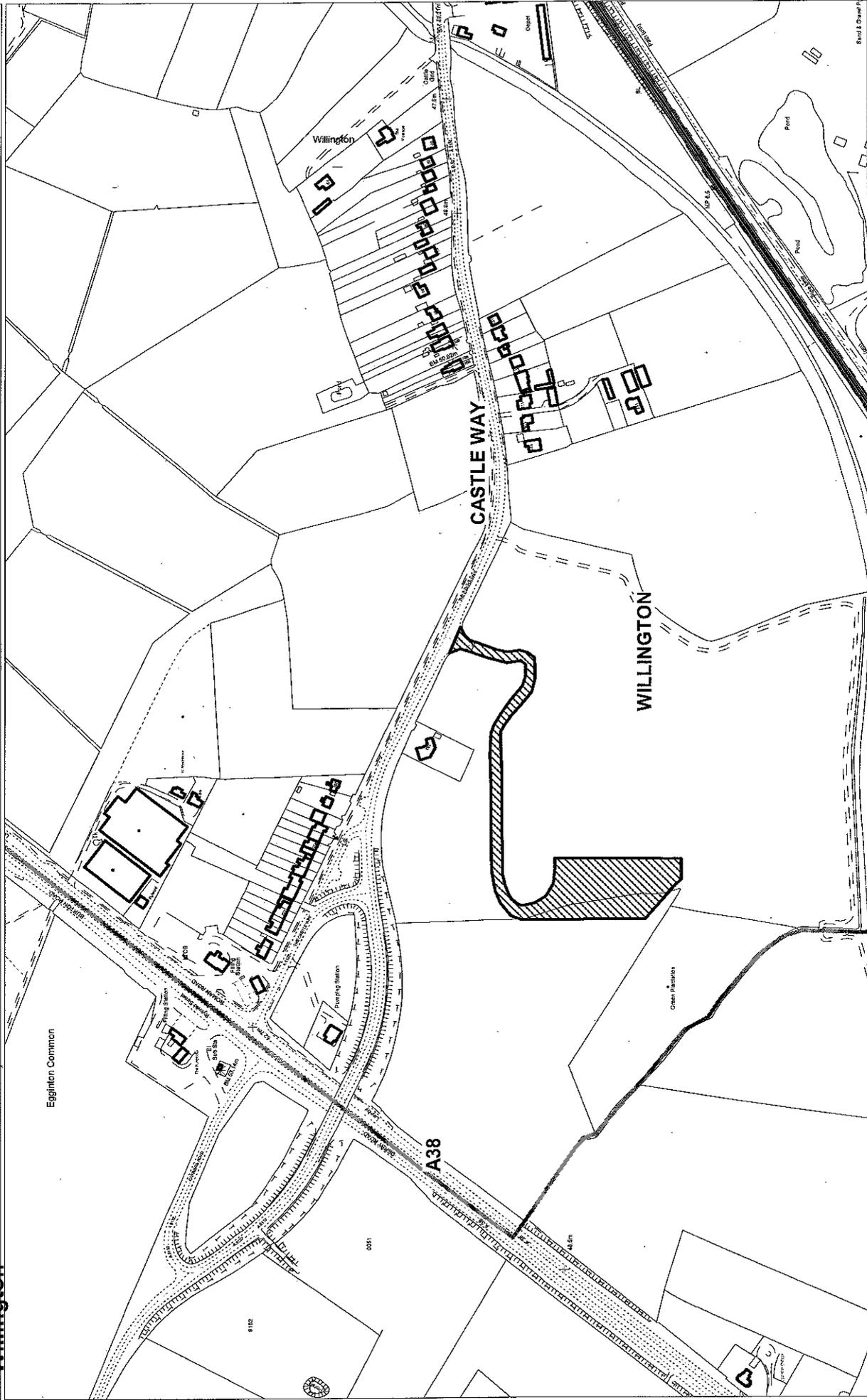
An area of woodland that lies outside the application area forms the southern most boundary of the site.

The nearest dwellings are some 170 metres from the proposed chicken buildings but the agricultural building and drive would be closer at some 155 metres. There are other dwellings on the opposite side of The Castle Way and these are some 230 metres from the site of the chicken buildings

Proposal

The two applications relate to the extension of the two permitted free-range egg production units that measure 9.14 metres x 18.29 metres x 5.36 metres The total size

9/2007/1152/M Land off Castle Way
Willington



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DISTRICT COUNCIL
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE DE11 0AH

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Date Plotted 4/1/2008
Scale 1:5000

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of the chicken shed buildings would be 83 metres x 18 metres x 5.36 metres high if this application were permitted.

Applicants' supporting information

The reason for the extensions to the chicken building is that the operation previously envisaged as an organic production unit has been changed to a standard free-range unit. This means that the stocking levels on the land can be higher. Accordingly each building would now accommodate 12,000 birds, with the extensions, as opposed to 6000 birds in the permitted buildings. No additional feed silos are required (*four are already permitted*).

The layout of the buildings is as previously permitted. Although the buildings would be larger, the material impact of the buildings would be similar from that view and the landscape impact would be insignificant. The extensions would be constructed in the same materials approved for the permitted buildings.

There would be an increase in lorry movements associated with the development by 23 over a 14-month period. This is considered by the applicants to be minimal given the level of mineral traffic using the access.

Planning History

Planning permission was granted for the two sheds and a mobile home on the site in 2006. The access to The Castle Way is part of a mineral operation and there is a requirement for the road to be removed once mineral operations have been finished. *See the County Planning Authority comments below.*

Responses to Consultations

Willington Parish Council has no objection to the development.

The County Planning Authority has no objection but draws attention to the permission for the minerals site that requires the removal of the haul road. The timing of this is dependant on the outcome of several undetermined minerals planning applications.

The Environment Agency has no objection subject to conditions.

The Environmental Health Manager has requested consideration of a condition limiting the use to a chicken farm as other types of agricultural operation may impact on the area and should be considered through the mechanism of a fresh planning application. Conditions requiring the submission of details of odour control and noise should also be considered.

Responses to Publicity

2 letters have been received relating to the applications that object to the applications for the following reasons: -

- a) The change from organic to just free-range would substantially increase the number of birds to 24,000 on the land would lead to increased smell, noise, pollution and health risk.

- b) There is a lack of consideration by the applicant of the welfare and outlook of anybody living near the site. The lack of any landscaping proposals emphasises this.
- c) The proposal is for an additional 700sqm to the buildings and by dropping the organic title and increasing the number of birds the proposal is much larger and it is suggested that the Committee would have come to a different decision if this had been the proposal.
- d) There is concern that the summary of the objections provided last time did not accurately reflect the extent of the objections to the development. The Committee should be given full copies of all objections so they can make a full and informed decision on such controversial applications.
- e) The proposal is too close to houses and according to numerous people, the Bowler site on Willowpit Lane is not in use and suggests that The Castle Way site is not needed.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: Environment Policies 1 & 5.

Planning Considerations

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

- Compliance or otherwise with Development Plan policies i.e. the need for the agricultural development in the countryside.
- The potential for impact on the countryside and its contribution or otherwise to the local distinctiveness of the area.
- Environmental factors (noise dust smell and vermin) and impact on residents.
- The request for a condition limiting use to a free-range chicken farm only.
- The suitability of the access, access point.

Planning Assessment

Development in the countryside is acceptable if it is necessary for it to be located there. The proposal is clearly an agricultural operation relating to the production of food from the land - a location in the countryside is therefore considered necessary. The applications are being considered as a substitution for the development already permitted.

If development is necessary in the countryside, then policies require that the development should be so designed and located such that the impact of the proposal is minimised.

Public vantage points for this development are limited to views from The Castle Way and potential distant views from the Trent and Mersey Canal Conservation Area. From neither of these vantage points could the buildings be said to be harmful to the character and appearance of the countryside. The conclusion is that the refusal of an agricultural related development in the countryside when there are examples of similar structures in the District would be difficult to sustain at appeal. The buildings have a

relatively low eaves height, the proposed roof colour would help to merge them into the sky and the colour of the silos can be conditioned to ensure that they do not form a prominent intrusion into the countryside.

The environmental impacts (as identified above in Planning considerations) have attracted no objection from the Environmental Health Manager. There is clearly limited noise impact arising from the development that can be controlled by condition. Dust is not produced of a scale where refusal of permission could be considered.

Although smell from the buildings is an issue when the material is removed from the building and transported from the site, removal will only occur once for a few days in every 60 week cycle. This is not considered unreasonable in a rural environment. Your officer has visited other sites operated by the applicants and found that the day to day smells on the occasions he has visited are no more, and perhaps less, than would be found at any other farm. Thus it is not considered that a condition requiring odour control measures would be justified.

The Environmental Protection Manager has requested that the permissions be limited solely to use as a free-range chicken unit. This is not considered a reasonable condition that would be capable of enforcement if breached. For example would it be reasonable to require an application should the sheds be used for keeping pheasants. The condition would be ultra vires. If a farmer chose to keep cattle on the land then no planning permission would be required. The proposal relates to an agricultural use and as such is appropriate in the countryside.

The County Highway Authority has raised no objection to the potential impact of the proposal on the local highway network. The long-term use of the access is a matter between the applicant and the owners of the minerals extraction site.

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

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the submitted details, 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 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. Notwithstanding the submitted indicative landscaping scheme, a detailed scheme for the protection, enhancement and ongoing management of the site in terms of landscaping and nature conservation features shall be submitted to and approved in writing by the Local Planning Authority.

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

4. The building shall not be occupied unless and until the loading/unloading, parking and manoeuvring space has been implemented in accordance with the details on the submitted drawing 0612.003.A that accompanied application 9/2006/0412. Thereafter, the facilities shall be maintained free of any impediment to their designated use.

Reason: In the interests of highway safety.

5. No work shall take place on the site until details of a scheme for the disposal of 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 pollution control.

6. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.

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

Informatives:

You are advised that any finds of objects of treasure are subject to the provisions of the Treasure Act 1996 and must be referred to the Derby and South Coroner at 18 St. Mary's Gate, Derby, DE1 3JR, (Tel. 01332-222159).

Further to the requirement for a watching brief during excavations to ascertain if archaeological remains require recording, a brief to control the works and advice on suitable contractors can be obtained from Andrew Myers, Development Control Archaeologist, Conservation and Design Group, Derbyshire County Council, Environmental Services Department, Shand House, Dale Road South, Matlock, Derbyshire, DE4 3RY. Tel: 01629 585146, Mob: 07881 850742.

Item **1.2**

Reg. No. **9/2007/1153/M**

Applicant:

Mr J Bowler
John Bowler (Agricultural) Ltd
Ivy Court
Etwall
Derby
DE65 6JG

Agent:

Mr Ian Pick
Ian Pick Associates Ltd
Unit 3
Driffield
YO25 6QP

Proposal: **The erection of a 6000 bird free range organic egg production unit (amended scheme 9/2006/0412/M) land off Castle Way Willington Derby**

Ward: **Willington/Findern**

Valid Date: **03/10/2007**

Reason for committee determination

Councillor Ford has requested that this application be brought before the Committee as local concern has been expressed about a particular issue and that the Committee should consider unusual site circumstances.

Please read the report on 9/2007/1152 for information about this application.

Recommendation

GRANT planning permission subject to the following conditions: -

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the submitted details, 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 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. Notwithstanding the submitted indicative landscaping scheme, a detailed scheme for the protection, enhancement and ongoing management of the site in terms of landscaping and nature conservation features shall be submitted to and approved in writing by the Local Planning Authority.

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

4. The building shall not be occupied unless and until the loading/unloading, parking and manoeuvring space has been implemented in accordance with the details on the submitted drawing 0612.003/A submitted with application 9/2006/0413. Thereafter, the facilities shall be maintained free of any impediment to their designated use.

Reason: In the interests of highway safety.

5. No work shall take place on the site until details of a scheme for the disposal of 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 pollution control.

6. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.

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You are advised that any finds of objects of treasure are subject to the provisions of the Treasure Act 1996 and must be referred to the Derby and South Coroner at 18 St. Mary's Gate, Derby, DE1 3JR, (Tel. 01332-222159).

Further to the requirement for a watching brief during excavations to ascertain if archaeological remains require recording, a brief to control the works and advice on suitable contractors can be obtained from Andrew Myers, Development Control Archaeologist, Conservation and Design Group, Derbyshire County Council, Environmental Services Department, Shand House, Dale Road South, Matlock, Derbyshire, DE4 3RY. Tel: 01629 585146, Mob: 07881 850742.

Item **1.3**

Reg. No. **9/2007/1160/F**

Applicant:

Assura Property Ltd &
LSP Development Ltd
Ashby De la Zouch
Leicestershire
LE65 2FR

Agent:

West Hart Partnership
5 Aldergate
Tamworth
Staffordshire
B79 7DJ

Proposal: **The erection of a new medical centre and retail pharmacy, associated car parking, access arrangements and landscaping at Land Off Glamorgan Way Church Gresley Swadlincote**

Ward: **Gresley**

Valid Date: **04/10/2007**

Reason for committee determination

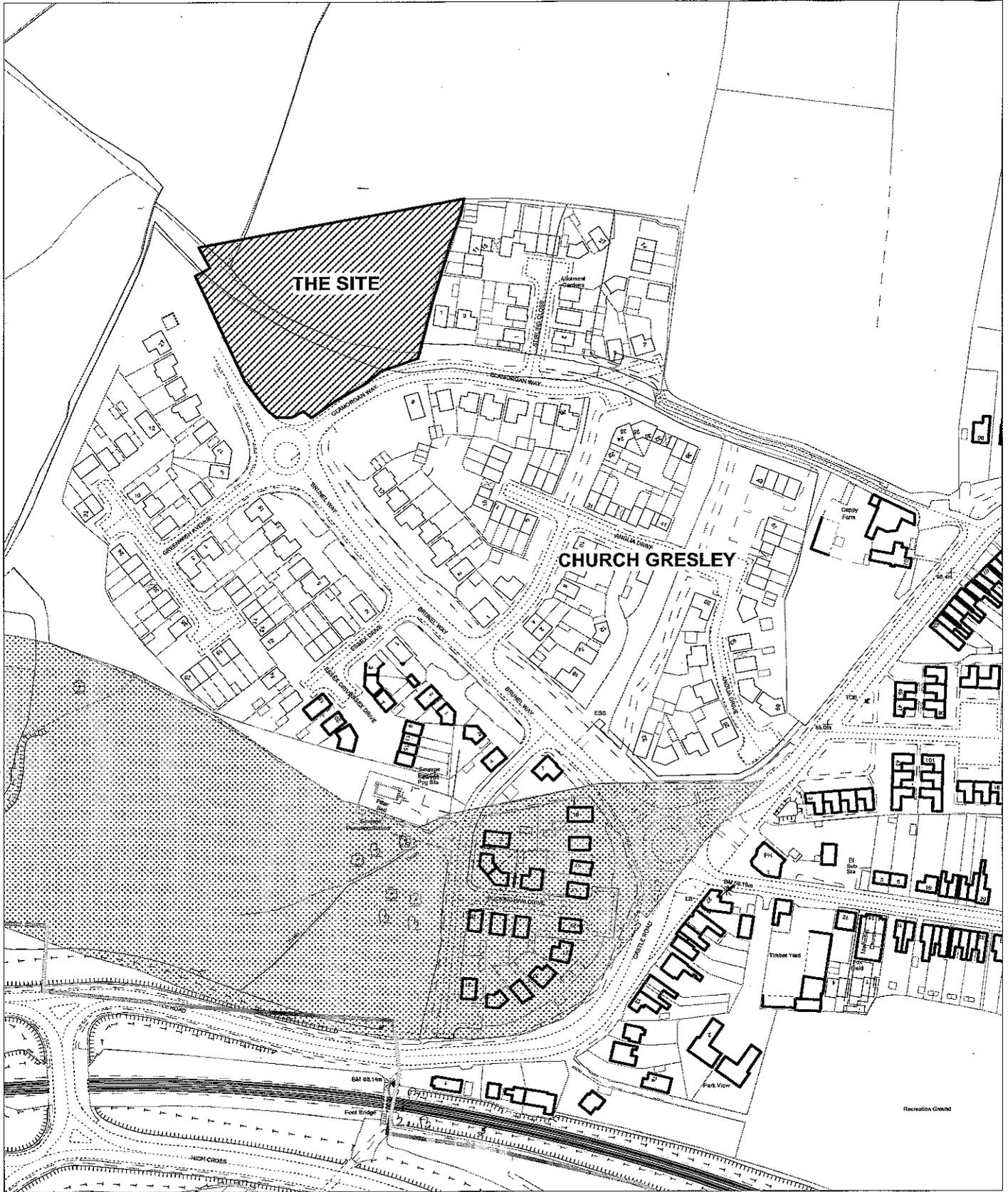
This application is closely related to application 9/2007/1161 which must be determined by the committee for the reasons set out in that report.

Site Description

This is a part of a designated area of land for use as a local centre to serve a development of upwards of 1,200 dwellings. It occupies a prominent corner on the main road through the estate among recently completed dwellings and a public open space area to the north. A footpath/cycleway is designed to run along the northern boundary alongside a wooded link through the estate. The line of a public footpath runs through the site and would therefore require diverting.

Proposal

The scheme shows an innovative modern design located on the site away from the main road frontage (Brunel Way) incorporating 10 training/consulting/treatment rooms, a pharmacy and ancillary facilities all located in a single part two-storey building. The main access to the site would be from Glamorgan Way with an additional pedestrian access from the footpath/cycleway to the north. The scheme would be accompanied by two parking areas of 21 parking spaces and 41 spaces, landscaping, cycle stands, bin stores and an electricity substation adjoining the eastern boundary. The 41 spaces car park would also be shared with the development on the adjoining land (see 9/2007/1161). Prior to the commencement of the development of the adjoining land, the site would be levelled and seeded. In response to detailed negotiations, an amended



 <p>South Derbyshire District Council Civic Offices Civic Way Swadincote DE11 0AH</p>	<p>9/2007/1160/F Land off Glamorgan Way Church Gresley</p>	<p>Date Plotted 4/1/2008</p>	<p>NORTH ↑</p>
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plan shows the Glamorgan Way frontage of the building redesigned and the substation relocated to a less conspicuous position.

Applicants' supporting information

The design and access statement concludes that the building has been designed to create and embrace inclusive access for all. It states that the extremely simple legibility of the building is the driving force behind creating an inclusive building.

Planning History

The site has been reserved for the purposes of a local centre since its inception.

Responses to Consultations

Severn Trent Water, the Pollution Control Manager and the Ramblers have no objections. The County Highway Authority has no objection subject to conditions.

Responses to Publicity

Comments have been received from two neighbours who have expressed the following concerns:

- a. Extensive tree and shrub removal will be necessary to re-route the public footpath
- b. There are no traffic flow details
- c. It is not clear that the centre will provide any extra services in the area
- d. It is not clear that the ground to be vacated by Gresley Rovers has been considered which would provide a better location
- e. A new primary school and children's recreation area are more urgently needed
- f. Access to the site is dangerous due to children playing
- g. Opening hours need to be addressed
- h. The possibility of ram-raids and robberies should be considered

Development Plan Policies

The relevant policies are:

RSS8: Policies 2, 3, 4 and 5.

Local Plan: saved Shopping Policy 3, Community Facilities Policy 1 and Housing Policy 14.

Planning Considerations

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

- The principle of the development with regard to local and national policy
- Residential amenity
- Design and layout
- Access and highway safety

Planning Assessment

The site was safeguarded for local facilities at the outline permission stage. Its use is therefore well known and established under that permission and therefore in terms of the principle of the development this is not an issue.

Before and during the course of the application, the design has been changed to accommodate the existing development (principally housing) on adjoining land and this has directly affected the layout detail of the scheme. The single storey element of the building is at the front rather than on the rising land to the rear so as not to unduly affect the residential amenity of the housing adjacent. Equally, the main parking area is located away from the nearest housing so as to minimise disturbance.

The building itself has been treated as a 'stand-alone' development in an attempt to perform as a point of reference in the wider area, which is welcomed. It takes on a contemporary modern design that would give the building a strong yet sympathetic appearance whilst preserving a human scale. Access to the centre would be from two main points both convenient to pedestrians and cyclists and therefore would operate well and would encourage good local access.

With regard to comments made by neighbours there are no trees on the site of any value and the landscaping of the areas remaining would more than compensate for any loss of vegetation. A children's play area is soon to be constructed to the north of the site.

The centre is designed to enable the local practice to replace outdated premises in Church Street and Midway which it has outgrown. It wishes to provide additional services and cope with the increasing population in the area. The location of the new medical centre on this site as opposed to any other is favoured by the Practice.

In conclusion the centre would provide an important focus for the area and deliver much needed extra facilities in a better purpose built environment.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 525-104 rev.c, 106 rev.a, 200 rev.j, 301 rev.b, 300 rev.e as submitted undercover of the agent's letter of 17 December 2007.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. 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.

4. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
B) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
C) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

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

Reason: In the interests of highway safety.

7. 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.

8. The areas shown on the approved plan for the parking and manoeuvring of vehicles shall be laid out, hard surfaced in a solid bound material (i.e. not loose chippings) and marked out prior to the first use of the development hereby permitted. Thereafter those areas shall remain unobstructed for their designated use.

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

9. 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.

10. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

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

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

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

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

13. No vehicular access shall be formed from the site to Brunel Way.

Reason: In the interests of highway safety.

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

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

Informatives:

the County Highway authority requires that the developer ensures that surface water run-off from the site be prevented from entering the highway. It also advises that a public right of way diversion order would be necessary.

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

The Public Health Act requires that there shall be no building over any public sewer crossing the site without the express consent of the Regional Water Company. You are asked to contact Severn Trent Water with regard to ensuring adequate protection/room for maintenance of the sewer.

15/01/2008

Item **1.4**

Reg. No. **9/2007/1161/M**

Applicant:

Assura Property Ltd &
LSP Development Ltd
Ashby De la Zouch
Leicestershire
LE65 2FR

Agent:

West Hart Partnership
5 Aldergate
Tamworth
Staffordshire
B79 7DJ

Proposal: **Outline application (all matters except layout, scale and means of access to be reserved) for the development of retail unit A1, A1/A2 and A5 plus 16 apartments (minimum 14 two bedroom units), associated car parking, landscaping and access at Land Off Glamorgan Way Church Gresley Swadlincote**

Ward: **Gresley**

Valid Date: **04/10/2007**

Reason for committee determination

This is a major application and more than two letters of objection have been received. The recommendation below does not correspond with the recommendation of the Council's Pollution Control Manager.

Site Description

See report for 9/2007/1160.

Proposal

Whilst the scheme is submitted for outline permission, layout, scale and means of access are submitted for approval now. The scheme shows a single three-story, flat-roofed block alongside the proposed medical centre (see previous item) with three A1/A2 units and two A5 (hot food takeaway) units on the ground floor. The scheme also shows 16 dedicated spaces for the apartments and some additional parking space in front of the retail units to compliment the larger car park to the south. An amended plan shows the building moved further away from the Brunel Way frontage to allow for some better landscaping and distance from the houses opposite.



**South Derbyshire
 District Council
 Civic Offices
 Civic Way
 Swadlincote
 DE11 0AH**

**9/2007/1161/O Land off Glamorgan Way
 Church Gresley**

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Date Plotted 4/1/2008

NORTH ↑

Plot centred at 428533 318026

Scale 1:2500

Applicants' supporting information

The applicants' have submitted a design and access statement that includes the following comments in support of the application. The residential and retail elements of the neighbourhood centre will strengthen the overall community usage and reinforce the strong identity and structure enhanced by the adjoining development. The contemporary architectural language is employed to provide a distinctive local identity and has been an important aspect from the planner's perspective. The design provides for good pedestrian access to the public areas, dedicated car and cycle parking.

Planning History

See report for 9/2007/1160.

Responses to Consultations

The Council's Pollution Control Manager has concerns regarding the proposed hot food units being below residential properties and therefore likely to suffer from cooking odours. Concern is also expressed at the potential for noise disturbance from activities on the premises from the clientele entering and leaving the premises at unsociable hours. It is therefore recommended that the application be refused. The Contaminated Land Officer recommends a site investigation via the standard condition.

The County Highway Authority considers that the required 24 parking spaces (16 two-bed units) should be provided all together within an allotted area for the exclusive control of the flats. It suggests that Manual For Streets recommends an acceptable standard of parking and that standard is 1.5 spaces per flat. Although it states that the scheme, which shows some parking shared with the public car park adjacent, is not acceptable, it concedes that a refusal for such reason would not be likely to be successful at appeal. It also confirms that a diversion order is necessary for the route of the public footpath

Responses to Publicity

Three comments have been received from neighbours to the site. In addition to the comments set out in the report to 9/2007/1160, the following points are also of concern:

- The outline permission requires the 16 flats to have parking for 32 cars.
- The site should be a children's play area
- The main access should be off the main road or the existing island
- The use of bright neon signs should not be permitted as they may cause a nuisance to residents.

Development Plan Policies

The relevant policies are:

RSS8: 2, 3, 4 and 5.

Local Plan: Saved Shopping Policy 3 and Housing Policy14.

Planning Considerations

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

- The principle of the development with regard to local and national policy
- Residential amenity
- Design and layout
- Access and highway safety

Planning Assessment

The site was safeguarded for local facilities at the outline permission stage. Its use is therefore well known and established under that permission and therefore in terms of the principle of the development this is not an issue.

With regard to comments from the Council's Pollution Control Manager regarding residential amenity, there are other important issues that need to be weighed against those comments. From the beginning it was always envisaged that a local centre would be built on the site. It must be expected that in order to attract a convenience store of reasonable size, a hot food takeaway is normally required. Indeed this is a common feature of such developments across the country. Whilst the Pollution Control Manager's comments are understood, it is considered that a local centre would probably not be viable unless it operates into the evening. It would appear that this may be the case with or without a hot food unit and therefore the situation would be the same and in addition, no adverse comments have been received from the Crime Prevention Officer. It is not considered reasonable therefore to withhold permission for this reason. Equally, provided adequate safeguards are employed in the detailed design of the building to avoid the impacts of cooking smells, the future occupiers of the apartments should not be unduly affected. It is early enough in the design process to ensure that this is achieved and a condition attached to this permission should guarantee this. For information, the developers (the applicants) acting for the local GP practice have also made it clear that the scheme is only viable if both this and the application for the medical centre are successful (although this on its own should not affect the members' decision).

With regard to the design, it should be noted that although illustrations have been submitted, the final design is not for consideration here. However, the purpose of the illustrations is to demonstrate how the scheme would work. Although negotiations have been difficult, the amended details now show that a development on the site alongside the proposed medical centre is broadly acceptable. The finer detail would be agreed at the reserved matters stage.

Comments regarding access and parking mainly revolve around the impact on existing residents and whether sufficient parking would be available for the development as a whole. Given that the site for a local centre is fixed, it is not readily apparent how access could otherwise have been designed and from this point of view the Highway Authority finds no fault. It is considered that the latest advice about parking provision would not support the provision of any further parking on the site. The scheme currently shows a total of 90 spaces. Given that the development is designed as a centre primarily to serve the local community, requiring any more spaces would seem inappropriate and contrary to the principle of encouraging local access other than by car.

The site is a part of the original area granted permission in 2000 which included a comprehensive Section 106 agreement to provide (inter alia) for a primary school and

public open space elsewhere, further contributions for this scheme therefore are not required.

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

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

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

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

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

3. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

B) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

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

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

6. No development shall take place until a scheme indicating provision to be made for access by people with disabilities has been submitted to the Local Planning Authority. The scheme as approved shall be implemented before the development is brought into use.

Reason: To ensure adequate opportunity of access for people with disabilities.

7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority 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.

8. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 525-105a and 525-107a.

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

9. Notwithstanding the submitted details, a scheme for delivery times and opening hours of all the retail units hereby permitted shall be submitted to and approved in writing by the Local planning Authority prior to the first use of the unit to which it relates. Thereafter the scheme shall be observed in full unless any approval has been granted by the Local Planning Authority to any variation.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

10. Prior to the first use of the site hereby permitted, details of a fume extraction system (to include extraction rates, discharge height, elevation drawings where necessary, and conditioning) shall be submitted to and approved in writing by the local planning authority and implemented in accordance with the approved scheme.

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

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

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

12. The areas shown on the approved plan no for the parking and manoeuvring of vehicles shall be laid out, hard surfaced in a solid bound material (i.e. not loose chippings) and marked out prior to the first use of the development hereby permitted. Thereafter those areas shall remain unobstructed for their designated use.

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

13. 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.

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

Reason: In the interests of highway safety.

15. 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.

16. Notwithstanding the submitted details, details of footpath access from Brunel Way shall be submitted to and approved in writing prior to the commencement of the development. The scheme shall be implemented in full prior to the first use of the development.

Reason: To ensure that satisfactory pedestrian access is available.

17. Notwithstanding the submitted details, details of any retaining walls to be erected on the site shall be submitted to and approved in writing prior to the commencement of the development. Only those retaining wall approved shall be

constructed on the site thereafter unless approval has been given for any variation.

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

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

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

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

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

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

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

Informatives:

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

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

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

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: dan.calverley@south-derbys.gov.uk.

To take notice of the requirements of Sections 4, 7, 8A of the Chronically Sick and Disabled Persons Act 1970, (as amended by the Disabled Persons Act, 1981) and to the Code of Practice BS 5810:1979 with respect to the means of access, sign posting and provision of toilet and parking facilities specified therein.

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

Item **1.5**

Reg. No. **9/2007/1175/O**

Applicant:
Saxman Ltd
The Old Mill
Hilton
Derby
DE65 5GP

Agent:
Saxman Ltd
The Old Mill
Hilton
Derby
DE65 5GP

Proposal: **Outline application (all matters except means of access to be reserved) for the residential development of The Old Mill Mill Lane Hilton Derby**

Ward: **Hilton**

Valid Date: **10/10/2007**

Reason for committee determination

The application is brought to the Committee at the request of Councillor Mrs Plenderleith as local concern has been expressed about a particular issue.

Site Description

The site comprises the grounds of the Old Mill at Hilton. The mill itself is a dwelling with a granny annexe. There is a large pond within the site and several of the crack willow trees are subject to a Tree Preservation Order. A provisional TPO has been placed on three lime trees on the boundary of what is described as Plot 5. Adjacent to the east boundary of the site is a bungalow and there are dwellings on Willowbrook Close to the north and east. Access to the site would be from Mill Lane that emerges on to Back Lane to the east of the site.

Proposal

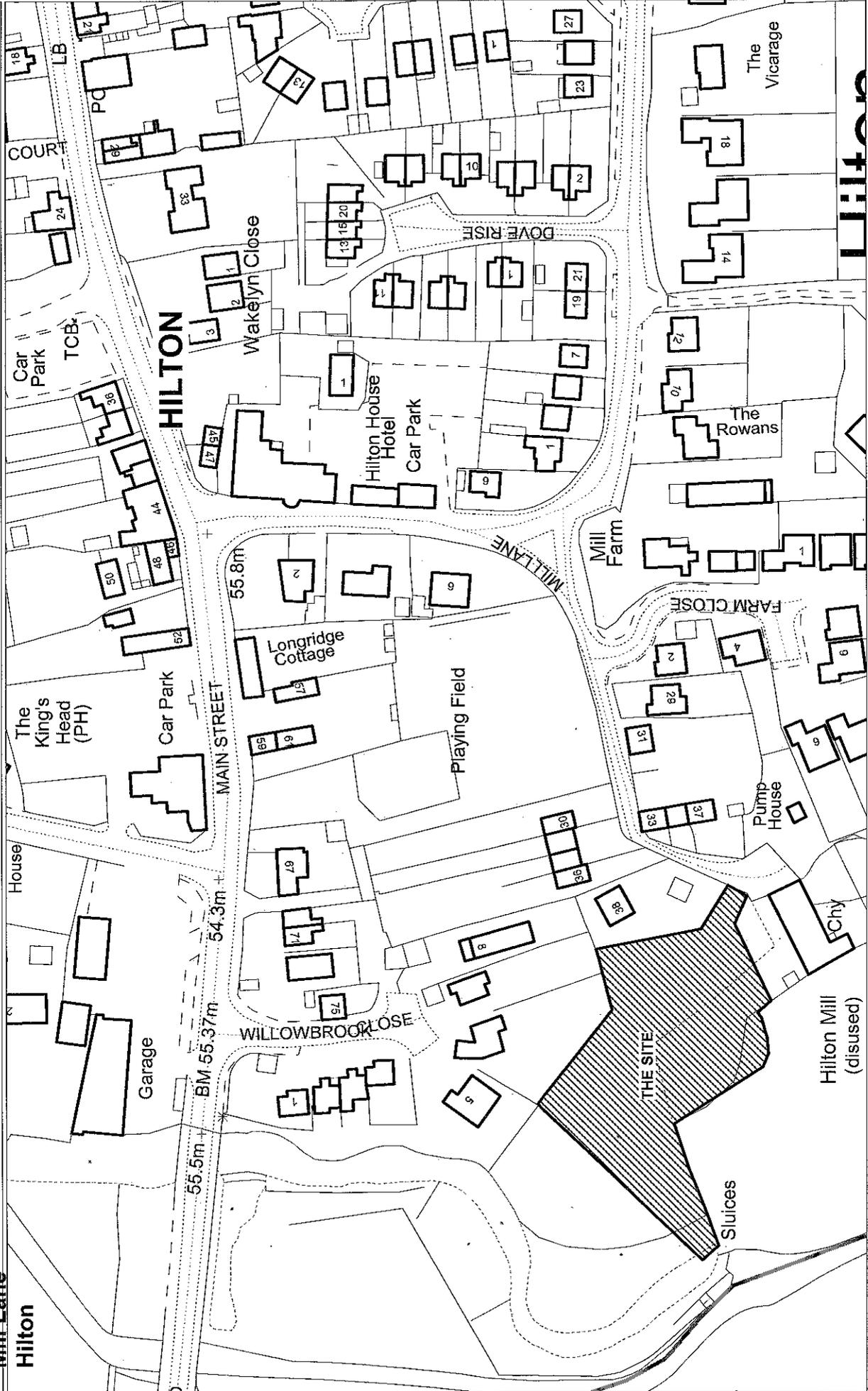
This is an outline application for the erection of 5 dwellings within the site. The development would involve filling in the existing pond. The formation of an access drive is the only issue that the applicants wish to be considered at this time along with establishing the principle of the housing development.

Should permission be granted, the existing pond in the grounds of the Mill would be filled in to accommodate the access road and thus to access the majority of the plots. As part of the flood compensation measure land levels would be reduced in other areas of the Mill grounds and ground levels would be raised to accommodate plot 5.

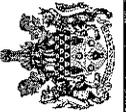
9/2007/1175/O The Old Mill

Mill Lane

Hilton



SOUTH DERBYSHIRE
DISTRICT COUNCIL
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE DE11 0AH



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Date Plotted 4/1/2008
Scale 1:1500
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The application is accompanied by supporting information relating to flood risk and land contamination. The Design and Access statement contains details of dwellings that the applicants envisage would be located on the site. This indicates a mix of dwellings of modern designs. However the design and appearance of the dwellings is reserved for subsequent approval should outline planning permission be granted.

Applicants' supporting information

A flood risk assessment, and a design and access statement have been submitted in support of the application and are available for inspection on the file. *See the consultee responses below and the Planning assessment.*

The applicants have sought to address the potential objections that may be submitted and have commented as follows on the perceived issues.

- a) Highway Safety - Two neighbours have erected a combination of fencing, gates and a wall within the highway and have been ordered to remove them by the County Highway Authority. Even with these obstructions in place, emergency vehicle could still be able to access The Mill along with refuse freighters. There have been no serious injury accidents; an Inspector has found the lane to be safe and the County Highway Authority has no objection to this application subject to the imposition of conditions.
- b) Flood Plain – Only a small part of the site is within the flood plain. The flood risk assessment has clarified that adequate provisions can be made within the site in the form of flood plain compensation and finished floor levels to satisfy the requirements of the Environment Agency that has no objection subject to conditions.
- c) Over Looking - The layout meets and in most cases exceed the council's guidelines.
- d) Car Parking - each dwelling would have room for 4 cars (2 garaged or car port, and 2 spaces)
- e) No more houses in Hilton - It is agreed that the last thing Hilton needs is a more 'estate style' house. The plan is to create some genuinely low carbon houses that will allow Saxman Ltd and SDDC to gain some valuable experience in what it takes to create such dwellings that would add to the range of houses within Hilton.
- f) Loss of trees – A neighbour who complained about the loss of trees on the site has removed their largest tree recently from the vicinity of the site. The crack willows on the site are in poor condition and most would be lost regardless of this application due to disease or their dangerous condition. In compensation for their loss 3 times more have been planted on the edge of the Hilton Brook on land in the ownership of the applicants. A further 24 native trees have been planted within the ownership of the applicants.

Planning History

Planning permission for the erection of two dwellings was refused on part of the site in 1992. The reasons for refusal related to the land being outside the built confine as it then existed and the impact on the trees within the tree preservation order. That decision was upheld at appeal. Since that time the Local Plan has been adopted and Housing Policy 5 applicable to Hilton saved. The village confine now includes that part of the application site where based on the layout submitted with the application the dwellings would be located.

Responses to Consultations

Hilton Parish Council has made no comment on the application as one of the applicant company partners is the Chair of the Council and as such the remaining members of the Parish Council have been advised not to comment on the application.

The County Highway Authority considers that residents on Mill Lane have built structures within highway limits and these occupiers have been served with a Notice to remove them. If the householders take no action then the matter will be referred to the County Council's solicitors. Subject to recommended conditions there is no objection to the development.

The Environment Agency has no objection to the development. It has carefully considered the Flood Risk assessment that accompanied the application. The Environment Agency concludes that subject to the submission of precise details about the flood compensation measures and other measure to ensure that the flooding of the area is not prejudiced it has no objection to the development.

Severn Trent Water has no objection subject to the submission of details of the foul drainage of the site.

The Environmental Protection Manager has examined the documents on contamination and is satisfied that the measure outlined in the report would satisfy and the contamination issues on the site and subject to the recommended conditions has no objection to the development.

Responses to Publicity

A total of 8 letters/documents have been received objecting to the development for the following reasons: -

- a) There is no evidence of need for expensive houses submitted with the application. The village survey conducted in 2006 identified an imbalance in housing provision and that the houses being constructed were too expensive and it certainly did not find a need for even more expensive houses than those currently under construction. The village does not have enough amenities to support more housing.
- b) The site is inappropriate for housing development – a previous application to develop 2 dwellings on the site was rejected and the subsequent appeal dismissed back in 1992. There is no substantive change from that time.

- c) The settlement would be extended and the current 'soft edge' would be lost.
- d) There is no suitable access to the site – Mill Lane is not suitable for the enormous increase in traffic that would occur it has no footways and there is a 90° bend that is difficult for large traffic to negotiate. Construction traffic would add to the dangers if permission were granted – extra large vehicles would be used to bring prefabricated buildings to the site. When a previous development took place delivery lorries had to park at the end of the lane and be unloaded by forklift trucks. Young children would be put at risk.
- e) The lane is not as big as it appears and neighbours are planning to reclaim their gardens making it impossible for commercial vehicles to access the application site.
- f) There is concern that the highways officer is unduly familiar with the applicants. The comments of the highway authority are therefore questioned especially the view the 'the development would be a suitable rounding off of this cul de sac. Mill Lane is wholly unsuited for this housing development. A previous inspector considered that 8 vehicle movements would be generated per dwelling; thus there would be a minimum of 40 new movements on Mill Lane – probably more as this is expensive housing.
- g) The site is part of the floodplain. The Flood Risk Assessment (FRA) offers no security against future flooding of the new houses and risk to existing houses of being damaged by floods. The land has flooded contrary to the assertions in the FRA and photographic evidence is provided and a long-standing resident has confirmed this. This is an area that suffers from severe flooding. The flood relief channel floods to a significant depth and lies within the application site. The western link road was raised several feet above ground level and there are no guarantees that this will not flood. The extensive hard surfaces will reduce the ability of the land to absorb water. Again there are no guarantees that the flood alleviation scheme that is proposed will work. Increasing the ground levels would increase the risk of other property flooding
- h) The TPO should be respected – existing trees have been removed that were the subject of the application – those that remain should be respected and retained as a valuable asset for birds and wildlife. The application proposes the destruction of the remaining crack willows on the site – these trees have many more years of life if properly managed and would continue to enhance visual amenity and provide a haven for wildlife that would not be compensated by the provision of immature trees in the area. There are few enough trees in the village without more being removed.
- i) Although the houses are described as eco friendly - it would be more eco to leave the site as it is especially given the noise and pollution that would be generated.
- j) The pumping sewer lies beneath Mill Lane that serves much of the village and may be at risk of damage from the large lorries that would need to access the site during the construction period.
- k) The site covers part of a biological site of local importance.

Development Plan Policies

The relevant policies are:

RSS8: Policies 1,2,3,4,6,33,36,40

Saved Local Plan Policies: Housing Policies 5 & 11, Environment Policy 9, Transport Policy 6

Planning Considerations

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

- The Development Plan
- Planning History
- The Tree Preservation Orders and loss of trees
- Access
- Impact on neighbours and the wider countryside
- The candidate wildlife site
- Section 106 requirements

Planning Assessment

The relevant development plan policies for this site are listed above. In terms of the approved policies, the built development would be located within the boundary of the settlement as defined in the proposals map of the adopted plan. Hilton is a settlement that has all the facilities that allow for new housing development to be acceptable. The land upon which the houses would be sited lies within the curtilage of the Mill and as such constitutes brown land.

Since the refusal of permission in 1992, the Local Plan has been adopted and Housing Policy 5 saved in accordance with current legislation. The village confine now includes that part of the application site where the dwellings are shown to be located on the layout submitted with the application. However only the principle of the housing development is sought at this time. Part of the application site does lie outside the village confine but this area would be used as garden for the houses. A condition is recommended to control garden buildings and structures.

There are trees in the site that are protected by an Order. Originally this related solely to the crack willows that occupy the site. More recently an Order has been placed on three lime trees that abut proposed plot 5. Works have recently been carried out to these trees but this was before the Order was made and the works should not adversely affect their long-term health.

The crack willows are in a poor state and there are only a limited number of the original trees still in place. Crack willows have a relatively short life span and these ones are not particularly impressive specimens and are also reaching the end of their life.

Taking a long view of the tree cover on the edge of the settlement, the new trees planted alongside the Hilton Brook would help to provide the soft edge to the settlement as envisaged by the Inspector in 1992 particularly when viewed from the south. Together with the planting at the west end of the depot site that has also recently been

carried out this would also soften the edge of the depot development that currently presents quite a hard edge to the village.

Existing trees on the edge of the village and within the owners' control already provide a soft edge albeit that existing residential development is visible through the trees at this time of year. The limes on the south boundary of plot 5 would also help to soften the impact of the development when viewed from the south. On balance it is considered that the loss of the relatively poor crack willow specimens would not form a valid reason for refusal on its own.

The County Highway Authority has considered access to the site – it has noted that works have been undertaken on Mill Lane that obstructs the highway. However, it remains of the view that the application is acceptable in principle subject to the imposition of the conditions recommended below.

Concern has been expressed about the impact of the development from the wider countryside but given the arguments expressed about the trees above, it is not considered that the material impact of this development on the wider countryside would warrant refusal of the application. This is particularly so given the visual impact of new houses within the Depot site to the south east of the site.

The application is in outline only and the siting of the dwellings and their appearance is not for consideration at this time. However, the submitted layout suggests that the dwellings could be sited such that they would comply with the Council's adopted standards for space about dwellings. These matters would be considered as part of a subsequent reserved matter application.

The site has historically been identified as a category Grade 3 wildlife site and as such a consultation has been undertaken with the Derbyshire Wildlife Trust whose response will be reported at the meeting if available.

It should be remembered that the development only just triggers the requirement for contributions under Section 106 for health education and open space. If the subsequent application for reserved matters proposes only four dwellings then no payments would be received.

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

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

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

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

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

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

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

3. No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading of the land including the existing and proposed levels and contours to be formed, showing the relationship of the proposed site levels to existing vegetation and surrounding landform and shall indicate the finished floor levels of the proposed dwellings. The development shall then be undertaken in accordance with the approved details.

Reason: In order to ensure that the ground levels as proposed comply with the scheme suggested in the Flood Risk Assessment that accompanied the planning application.

4.
 - A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
 - B) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
 - C) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
 - D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

5. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This

shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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

6. 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.

7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority 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.

8. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of protected trees shall be fenced with chestnut pale fencing to a minimum height of one metre staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees from undue disturbance.

9. There shall be no tipping or deposition of materials within the area fenced under condition 8 above without the prior written authorisation of the local planning authority.

Reason: To protect the trees from undue disturbance.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no buildings and no gates, walls, fences or other means of enclosure shall be erected on the application site without the prior written approval of the Local Planning Authority.

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

12. The existing parking and manoeuvring space, not affected by the proposed access, shall be maintained throughout the duration of the works to form the access and thereafter be retained free of any obstruction to its designated use.

Reason: To ensure that adequate parking/garaging provision is maintained available for the existing dwelling.

13. Notwithstanding the submitted details, the access shall have a minimum width of 4.1 metres for the whole of its length within the site as far as the turning area.

Reason: In the interests of highway safety.

14. Prior to the occupation of the first dwelling on the site, space shall be provided within the site curtilage for the turning of service vehicles in accordance with the details shown on Drawings H76/1 and H76/2 dated November 2007. Thereafter the space shall be maintained free from any impediment to its designated use.

Reason: In the interests of highway safety.

15. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of each dwelling, or as may otherwise be agreed by the Local Planning Authority in accordance with its published standards. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

16. No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water run-off limitation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved programme and details.

Reason: To prevent the increased risk of flooding.

17. No development approved by this permission shall be commenced until a scheme for the provision and implementation of compensatory flood storage works has been submitted to and approved in writing by the Local Planning Authority. The scheme which is outlined in section 3.6 of the Hilton Mill FRA dated Nov 2007, shall be implemented in accordance with the approved method statement and details, prior to development commencing on site.

Reason: To alleviate the increased risk of flooding

18. There must be no new buildings, structures (including gates, walls and fences) within 4 metres of the top of any bank of watercourses inside or along the boundary of the site, unless agreed otherwise in writing by the Local Planning Authority.

Reason: To maintain access to the watercourse for maintenance or improvements.

19. There must be no raised ground levels with a slope greater than 1 in 3 within 4 metres of the top of any bank of inside or along the boundary of the site, unless agreed otherwise in writing by the Local Planning Authority.

Reason: To maintain access to the watercourse for maintenance or improvements and provide a natural channel edge and bankside habitat.

20. There shall be no storage of any materials including soil within that part of the site liable to flood (defined by the Environment Agency's Flood Zone map), or proposed to provide flood plain compensation shown as C1_1 to C1_4 on drawing No. WB/SMPR/Drawing - 001

Reason: To ensure that there will be no increased risk of flooding to other land/properties due to impedance of flood flows and/or reduction of flood storage capacity. This excludes the area to be raised to provide the development plateau.

21. Floor levels should be set at least 600mm above the 1% AEP plus 20% (for climate change) flood level, which equates to 53.48 metres above Ordnance Datum (as detailed in section 3.6 of the Hilton Mill FRA dated Nov 2007).
Reason: To protect the development from flooding.
22. There are public sewers that cross the site. No building shall be erected or trees planted within 3.0 metres of the 300mm public foul combined sewer.
Reason: To maintain essential access for maintenance, repair or renewal and to protect the structural integrity of the public sewerage system.
23. Before any other operations are commenced, a temporary access shall be formed into the site for construction purposes, and space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives and visitor's vehicles, loading and unloading of goods vehicles, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of highway safety.

Informatives:

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: dan.calverley@south-derbys.gov.uk.

The proposed ground raising and flood plain compensation works will need the prior written consent of the Environment Agency under the terms of the Water Resources Act 1991 and Land Drainage Byelaws.

Further to condition 21 above, Severn Trent Water Ltd advises that buildings or planting may take place if a Building Over Approval is issued by the Company. Alternatively, you may wish to apply to Severn Trent Water Ltd to divert the sewer in accordance with Section 185 of the Water Industries Act 1991. If you choose the former route then you would need to apply to set aside the requirements of Condition 21.

Item **1.6**

Reg. No. **9/2007/1260/F**

Applicant:

Panoramic Developments
Etwall Road
Mickleover
Derby
DE3 0BX

Agent:

Rothera Goodwin
42 St. Marys Gate
Derby
DE1 3JZ

Proposal: **The erection of six dwellings and the formation of an associated access from Bell Avenue 92 Weston Road Aston-on-Trent Derby**

Ward: **Aston**

Valid Date: **30/10/2007**

Reason for committee determination

Councillors Coyle and Watson have requested determination by Committee because local concern has been raised about a particular issue.

Site Description

The site comprises the large L shaped garden to 92 Weston Road that wraps around the rear garden boundaries to 94 - 98 Weston Road. The land was once used as a market garden but has been used as residential curtilage for many years. The site lies within the boundary of the village as defined in the Local Plan.

A ditch runs along the southern site boundary and discharges into an existing culvert running under the garden to 98 Weston Road.

The application site also affects 8 Bell Avenue, which is used as a local doctor's surgery.

Proposal

Six dwellings are proposed, served by a private drive running alongside 8 Bell Avenue. Following concern expressed in respect of compliance with supplementary planning guidance (because of its impact on 90, 92 & 94 Weston Road) Plot 6 has been amended so that the rear bedrooms are lit by rooflights set above eye level. Minor changes to the road layout and parking provision have also been made, following comment from the Highway Authority.

Apart from Plot 6 the houses would have second floor rooms in their roofs.

Applicants' supporting information

The Design and Access Statement makes the following main points:

- a) The scheme would improve parking facilities for the local doctor's surgery in Bell Avenue.
- b) The site is a sustainable Brownfield site. Therefore there is an opportunity to develop within the local development plan area, and as such the proposal falls within the Government PPS3 requirements to re-use existing sites.
- c) The dwellings would be 2 storey in appearance.
- d) The design of the new dwellings aims to be simple and not create a visual impact, as this is a secluded site.

Planning History

Outline permission was granted on the site, as part of a larger development, in 2004. Access would have been via an adoptable standard road connecting with Weston Road.

Responses to Consultations

The Parish Council objects as follows:

- a) A covenant on the land restricts the number of dwellings to two.
- b) The application should be considered in the light of the proposal to extend the surgery (9/2007/1317/F on this agenda).
- c) Bell Avenue and Valerie Road are narrow and the development would increase hazards.
- d) The parking and turning areas would not be adequate. In particular the turning head would conflict with current Building Regulations requirements.
- e) The dwellings would be out of keeping with surrounding housing because of their height.
- f) There would be loss of amenity to neighbours, in conflict with supplementary planning guidance.
- g) A large tree has been felled and another would need to be felled.
- h) A site visit should be made.

The Highway Authority and Severn Trent Water Ltd have no objection in principle.

The Land Drainage Officer requires provision to be made to compensate for loss of the ditch.

The Leisure Services Manager seeks a contribution of £17136 towards local facilities.

The Education Authority seeks £10435 towards primary school improvements.

Responses to Publicity

Save Aston Village Environment objects as follows:

- Permission would be against the democratic wishes of the community. The Village Plan questionnaires revealed that 89% of the village would like to see restrictions on new development to protect the village environment. The

response is to resist planning applications that impinge on the wishes of the majority.

- In view of the district council's encouragement of parish plans they should be taken notice of if they are to be given any credence.

Another 51 letters have been received raising the following objections:

- a) There is a restrictive covenant on the land that would prevent development of this number of houses and which would be enforced in the event of construction taking place.
- b) The access does not comply with County Council standards.
- c) There would be increased congestion in Bell Avenue.
- d) There would be danger to pedestrians and surgery parking would impede access for service and other vehicles.
- e) There would be hazardous manoeuvres associated with parking for the surgery.
- f) There would be inadequate visitor parking.
- g) Visibility and road geometry is inadequate.
- h) No provision is made for pedestrians, contrary to SDDC SPG.
- i) Bell Avenue does not have the capacity to cope with the increase in traffic.
- j) The requirements of the Building Regulations for emergency vehicle turning cannot be met.
- k) Because of their height the new dwellings would have an overbearing and oppressive effect on neighbours.
- l) The site would be overdeveloped, with large houses and small gardens, to the detriment of the character of the area.
- m) There would be overlooking, overshadowing and loss of privacy to neighbours' gardens and rooms.
- n) Plot 6 would not meet guidelines for separation distances.
- o) Wildlife habitat would be lost.
- p) There is misleading information relating to the previous use of the land, the height of the buildings, the provision of parking at the surgery, and the planning history.
- q) The development would be detrimental to the character of the area.
- r) Village facilities are inadequate for further development.
- s) The existing drainage channel would be impeded creating flood risk.
- t) Loss of permeable land would increase flood risk.
- u) Affordable housing should be provided.
- v) The adjacent bungalow has higher ground levels, which could be undermined by development.
- w) The existing hedgerows should be retained.
- x) There would be pollution of the night sky.
- y) The outline permission on the larger site has expired.

Councillor Watson has provided copies of 24 letters addressed to him that contain the range of objections listed above.

Development Plan Policies

The relevant policies are:

RSS8: Policy 3

Local Plan: Housing Policies 5 & 11

Planning Considerations

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

- The principle.
- Highway safety.
- Residential amenity.
- Visual impact.
- Drainage and flooding.
- Planning contributions.

Planning Assessment

This site lies in the village confine and involves brownfield land. As such development is acceptable in principle. The previous grant of outline permission (as part of a larger development site) is also a material consideration in this regard.

On the advice of the Highway Authority there would be no demonstrable harm to highway safety interests.

Whilst the dwellings would be much higher than the bungalows in Bell Avenue they would not be substantially larger than the frontage dwellings on Weston Road. As they would generally be visible in their backland setting only their impact on the general character of the area would thus not be harmful.

The revised Plot 6 would avoid direct overlooking to neighbours' habitable room windows. As such the development would not result in demonstrable harm to the amenities of the occupiers of existing dwellings.

Subject to the provision of a new culvert, the surface water runoff presently dealt with by the ditch would be adequately compensated for.

The planning contributions sought by the Leisure Services Manager and the Education Authority are reasonable and required as a consequence of the development proposed.

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

Subject to the applicant providing a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990, to secure the planning contributions identified above, **GRANT** permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. A006 Rev B and A 002 Rev D received 4 January 2008.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. 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.
4. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
Reason: In the interests of the appearance of the area.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: In the interests of the appearance of the area.
6. 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.
7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority 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.
8. Prior to any other works commencing, the new access shall be extended into the site. The access shall have a minimum width of 4.1m maintained along its full length.
Reason: In the interests of highway safety.

9. Prior to any other works commencing, except condition 1 above, the eight car parking spaces shall be provided for the doctors surgery. Each space shall measure at least 2.4m x 4.8m with 6m manoeuvring space behind, be laid out in accordance with drawing number 065034/A002/C, paved in a solid bound material and maintained thereafter free of any impediment to its designated use.
Reason: In the interests of highway safety.
10. Prior to the occupation of the first dwelling, the shared access and turning area shall be provided in accordance with the revised application drawing, paved in a solid bound material and maintained thereafter free of any impediment to its designated use.
Reason: In the interests of highway safety.
11. The new culvert indicated on the submitted drawing A 002 Rev D shall be provided concurrent with the road works required by Condition 8 above and in accordance with a detail specification that shall have previously been submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of flood prevention.
12. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate three cars within the curtilage of Plots 1-5 and two cars within the curtilage of Plot 6. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), three parking spaces to Plots 1-5 and two parking spaces to Plot 6, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site.
Reason: To ensure that adequate parking/garaging provision is available.
13. Unless as may otherwise be approved in writing by the Local Planning Authority, the garages shall have roller shutter doors.
Reason: To ensure the effectiveness of the parking spaces in front of the garages.
14. The windows in the side walls to Plot 6 shall be permanently glazed in obscure glass.
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

Item 1.7

Reg. No. 9/2007/1276/F

Applicant:

Mr Chris Mason
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:

Mr Mike Elliott
Groundwork Derby & Derbyshire
43 Cromford Road
Langley Mill
Derbyshire
NG16 4EF

Proposal: The installation of a multi user games area at the recreation ground Dunsmore Way Midway Swadlincote

Ward: Hartshorne/Ticknall

Valid Date: 02/11/2007

Reason for committee determination

The Council is the applicant.

Site Description

The site comprises an established recreation ground laid to grass with various recreational facilities. The site lies within the urban area surrounded by housing on all sides.

Proposal

It is proposed to install a Multi User Games Area and teen shelter in the south eastern corner of the recreation ground. The facility would consist of a 15m x 24m weldmesh ball court set upon a macadam base wearing course with powder coated green mesh fencing 2m high along the sides and 3m high at goal ends. The teen shelter would consist of a 15m² aluminium seating area for 15 people with an overall height of 2.9m. The current footpath access from Salisbury Drive to the existing play area would be extended to serve the ball court. The proposed flood lighting which formed part of the original submitted scheme is to be removed following consultation with Environmental Health.

Applicants' supporting information

The agents state that the South Derbyshire District Council's Youth Facilities Plan has identified a lack of youth play facilities in Midway. This proposal is intended to address this lack of provision. Potential siting of the MUGA is limited due to the variation in ground levels and available space however the location of the ball court is away from



 South Derbyshire District Council Civic Offices Civic Way Swadlincote DE11 0AH	9/2007/1276/F Recreation Ground Dumsmore Way Midway	Date Plotted 4/1/2008	NORTH ↑
	Crown Copyright. All rights reserved. South Derbyshire District Council OS Licence No. LA 100019461. 2006	Plot centred at 431068 320305	Scale 1:2000

the existing football pitch and play area to avoid conflict and sited nearer to the top of the ridge to avoid surface water drainage issues. The size is aimed at casual recreation rather than organised team matches.

Planning History

There is no relevant planning history.

Responses to Consultations

The Contaminated Land and EMAS Officer has no objection subject to the submission of a contaminated land report.

The County Highway Authority has no objection.

Environmental Health has no objections subject to the removal of the floodlighting.

Responses to Publicity

An email supporting the application has been received.

Development Plan Policies

The relevant policies are:

RSS8: N/A

Local Plan: Recreation and Tourism Policy 1.

Planning Considerations

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

- The potential for noise as a result of intensification of use
- The impact on amenity from the structure

Planning Assessment

The development plan policy advises that recreation facilities will be permitted providing in part that the development does not cause disturbance to local amenity and that such facilities are well integrated with their surroundings.

The application site is screened from the majority of the surrounding housing by the existing boundary trees and shrubs. The nearest residential boundary is situated over 20m away. The removal of the floodlighting would restrict the use to daylight hours providing a limited intensification of an existing use which is considered acceptable.

The boundaries of the recreation ground surrounding the proposal consist of an existing tree and shrub screen which is particularly dense along the eastern boundary. The fencing surrounding the proposed ball court would consist of a dark green weldmesh and would not be unduly prominent against this landscaped back drop. The teen shelter would be located adjacent to the ball court and would not be visually intrusive in

this location. The proposed application site will only take up a small area of the existing recreation ground and is considered acceptable.

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

Subject to the receipt of amended plans removing the floodlighting and a suitable condition confirming that the permission will relate only to the amended plans:

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2.
 - A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
 - B) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
 - C) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
 - D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.
3. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without

delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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

4. Before any other operations are commenced, space shall be provided within the site curtilage for the storage of plant, materials, site accommodation, loading, and unloading of goods vehicles, parking and manoeuvring of site operatives and visitor's vehicles, laid out in accordance with a scheme first submitted to and approved by the Local Planning Authority and maintained throughout the contract period free of any impediment to its designated use.

Reason: In the interests of highway safety.

5. Prior to any works commencing, details of the footpath in the vicinity of Salisbury Drive, measures to prevent surface water flowing onto the public highway and the pedestrian barrier shall be submitted to and approved in writing by the Local Planning and County Highway Authorities. The development shall be implemented in accordance with the approved details.

Reason: In the interests of highway and pedestrian safety.

Informatives:

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: dan.calverley@south-derbys.gov.uk.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification prior to commencement should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) should any works need to be carried out within the public highway.

Item **1.8**

Reg. No. **9/2007/1278/F**

Applicant:

Mr Chris Mason
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
Derbyshire
DE11 0AH

Agent:

Mr Mike Elliott
Groundwork Derby & Derbyshire
Groundwork Derby & Derbyshire
43 Cromford Road
Langley Mill
Derbyshire
NG16 4EF

Proposal: **The installation of floodlighting and erection of additional fencing and gates to the existing Multi User Games Area at Maurice Lee Memorial Park York Road Church Gresley Swadlincote**

Ward: **Gresley**

Valid Date: **16/11/2007**

Reason for committee determination

The Council is the applicant. *Since the last committee a neighbour comment was received during the notification period and it is therefore necessary for the committee to consider the application further. The additional text is in italics for ease of reference.*

Site Description

The site comprises a long established formal park laid out with various recreational facilities. It lies within the urban area and has housing adjoining one side albeit separated from the park by a road (Market Street).

Proposal

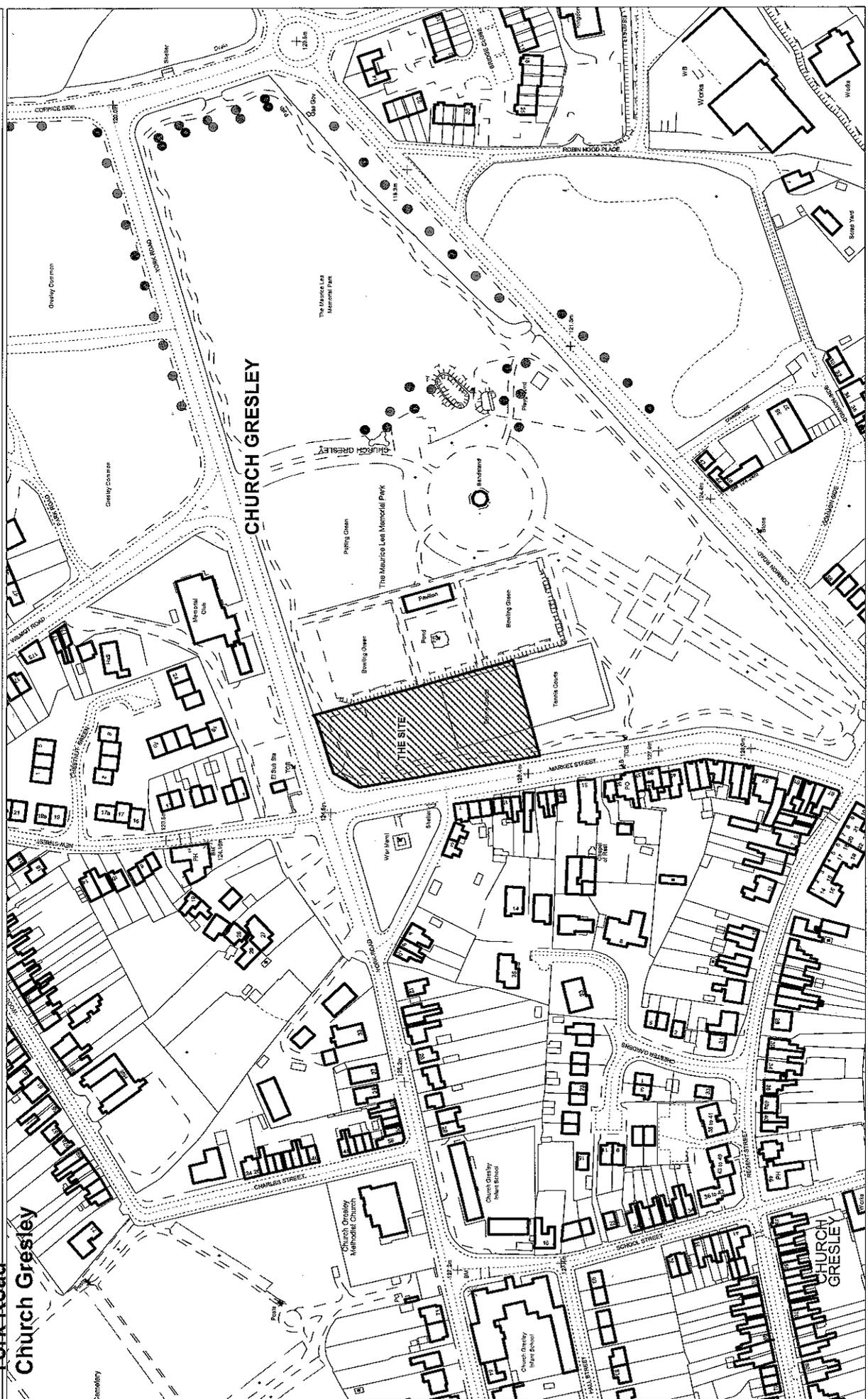
It is proposed to erect four 8m high lighting columns around the edge of the existing Multi Use Games Area in order to extend the hours that it is available for use. Each lighting column would have two lamp heads set to minimise light pollution outside the site. In addition the lights would be linked to a timer to switch on at dusk and off no later than 21.30 hrs.

The information submitted with this proposal also shows that additional security fencing is to be erected within the site. This fencing would not require planning permission.

Applicants' supporting information

The agents state that the lighting is to allow greater use of the area through the darker winter month evenings. As the park is currently locked at night, additional internal

9/2007/1278/F Maurice Lee Memorial Park
 York Road
 Church Gresley



SOUTH DERBYSHIRE
 DISTRICT COUNCIL
 CIVIC OFFICES
 CIVIC WAY
 SWADLINCOTE DE11 0AH

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Date Plotted 4/1/2008
 Scale 1:2500

Licence No LA 079375



fencing will help secure the wider park while allowing access to the ball court. Due to the residential properties opposite and surrounding roads, extra care has been required to ensure that the floodlighting is confined to the court (specialist lighting engineers have been commissioned for this), thereby reducing significant spill and glare; this will be assisted by the existing mature trees and hedge line. Socially, this is currently only one of two youth facilities of its type in Swadlincote and the fact that it is unplayable and locked away for a significant portion of the year due to the darker winter nights, must be disappointing and frustrating to local youth.

Planning History

There is no relevant planning history.

Responses to Consultations

The Pollution Control manager has no objection to the scheme.

Responses to Publicity

A neighbour states that they have had a problem with young people using this area of the park to sit, drink alcohol and intimidate other children. They have also been witnessed causing damage in the area. Floodlighting the area may enable youngsters to use the area for longer periods and encourage anti-social behaviour. More young people are hanging around the bandstand area since it was lit. He questions whether local residents have been considered, whether CCTV will cover the area and what the timing of the lights would be which may cause a nuisance through light spillage at night.

Development Plan Policies

The relevant policies are:

RSS8: N/A

Saved Local Plan: Recreation and Tourism Policy 1.

Planning Considerations

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

- The impact on amenity from the structure
- The potential for noise as a result of increased hours of use
- Light pollution

Planning Assessment

Generally, the development plan policy seeks to ensure (among other things) that recreation facilities do not cause disturbance to local amenity and that such facilities are well integrated into their surroundings.

Prior to receiving this latest objection, there has been no objection to the principle of works to enhance the quality or availability of public facilities in the Park, either from those who live around it nor from the Pollution Control Manager. The issues raised by the local resident relate mainly to public order, which in turn are a matter for the local

police rather than for this committee. As such, a copy of the comments have been forwarded to the Community Safety Partnership Team.

In terms of the lighting columns themselves, these are to be coloured grey and would not be unduly prominent given the backdrop of mature trees in the locality, many of which exceed 8m in height.

Information submitted with the application indicates the angle of the lamp heads and the extent of the area illuminated. It is considered that there would not be undue light spillage in a locality that already has street lighting. Furthermore the timers would ensure that the lights do not remain on unnecessarily.

The proposal is therefore considered acceptable and unaffected by the comments made. However, it is important to pass on the comments to the Community Safety Partnership for them to respond separately.

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

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the originally submitted details, this permission shall relate to amended drawing no. (MCJ) 1900/MLM/01.

Reason: For the avoidance of doubt.

3. The lights hereby permitted shall always be switch off between 2130 hrs and 0700 hrs

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

4. The maximum wattage of bulbs in the lamp heads shall be no higher than 400 watts unless otherwise agreed in writing with the Local Planning Authority.

Reason: To preserve amenity.

5. Notwithstanding the submitted information, lamp heads shall be permanently angled so as to be parallel with the ground unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the locality from light pollution.

Informatives:

With regard to condition 5, a tolerance of 15 degrees may be acceptable subject to justification from a member of the Institute of Lighting Engineers.

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

15/01/2008

Item **1.9**

Reg. No. **9/2007/1291/F**

Applicant:

South Derbyshire Distirct Council
Civic Way
Swadlincote
Derbyshire
DE11 0AH

Agent:

Mr Mike Elliott
Groundwork Derby & Derbyshire
The Bridge Centre
Langley Mill
Derbyshire
NG16 4EF

Proposal: **The installation of a new Multi User Games Area to include the erection of a teen shelter and associated lighting at the Recreation Ground Mount Road Hartshorne Swadlincote**

Ward: **Hartshorne/Ticknall**

Valid Date: **16/11/2007**

Reason for committee determination

The Council is the applicant.

Site Description

The site comprises of an established recreation ground laid out with various recreational facilities. It lies outside of the development boundary with housing along the north western boundary and open fields to the remaining three boundaries.

Proposal

It is proposed to install a Multi User Games Area and teen shelter within the north eastern corner of the recreation ground. The facility would consist of a 15m x 24m weldmesh ball court set upon a macadam base wearing course with powder coated green mesh fencing 2m high along the sides and 3m high at goal ends. The teen shelter would consist of a 15m² aluminium seating area for 15 people with an overall height of 2.9m. The facility will be accessed by a footpath connecting directly to the main entrance on Mount Road. The proposed flood lighting which formed part of the original submitted scheme is to be removed following consultation with Environmental Health.

Applicants' supporting information

The agents state that the South Derbyshire District Council's Youth Facilities Plan has identified a lack of youth play facilities in Hartshorne. This proposal is intended to address this lack of provision. The siting of the facility in the north eastern corner of the recreation ground is the only viable, available space far enough away from the residential housing to accommodate the new facility without intruding upon the neighbouring properties. The permeable structure of the ball court should not cause any significant visual intrusion against the backdrop of the open agricultural fields. The facility is aimed at casual recreation use rather than organised team matches.

Planning History

There is no relevant planning history.

Responses to Consultations

Environmental Health has no objections subject to the removal of the floodlighting.

Responses to Publicity

A letter of objection has been received raising concerns about noise and anti-social behaviour.

Development Plan Policies

The relevant policies are:

RSS8: n/a

Local Plan: Recreation and Tourism Policy 1

Planning Considerations

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

- The potential for noise as a result of intensification of use
- The impact on amenity from the structure.

Planning Assessment

The development plan policy advises that recreation facilities will be permitted providing in part that the development does not cause disturbance to local amenity and that such facilities are well integrated with their surroundings.

The ball court and teen shelter are located an approximate distance of 56m away from the nearest residential boundary. The removal of the floodlighting would restrict the use to daylight hours providing a limited intensification of an existing use which is considered acceptable.

The fencing surrounding the proposed ball court would consist of a dark green weldmesh and would not be unduly prominent against the back drop of open fields and hedgerows. The teen shelter would be located further into the site against the backdrop of the ball court fencing and would not be visually intrusive against the surrounding

open fields. The proposed application site will only take up a small area of the existing recreation ground and is considered acceptable in scale.

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

Subject to the receipt of amended plans removing the floodlighting and a condition confirming permission relates to the amended plans only:

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

Item **1.10**

Reg. No. **9/2007/1317/F**

Applicant:
Dr Harris & Partners
Bell Avenue
Aston-on-trent
Derby
DE72 2BE

Agent:
Paul Rothera
Rothera Goodwin
42 St. Marys Gate
Derby
DE1 3JZ

Proposal: **The erection of extensions, a car port and associated parking at the doctors surgery at 8 Bell Avenue Aston-on-trent Derby**

Ward: **Aston**

Valid Date: **12/11/2007**

Reason for committee determination

Councillor Coyle has requested determination by Committee because the application links with 9/2007/1260/F and there is a lot of public concern for this development.

Site Description

The property is situated at the head of Bell Avenue and provides an existing local GP service.

Proposal

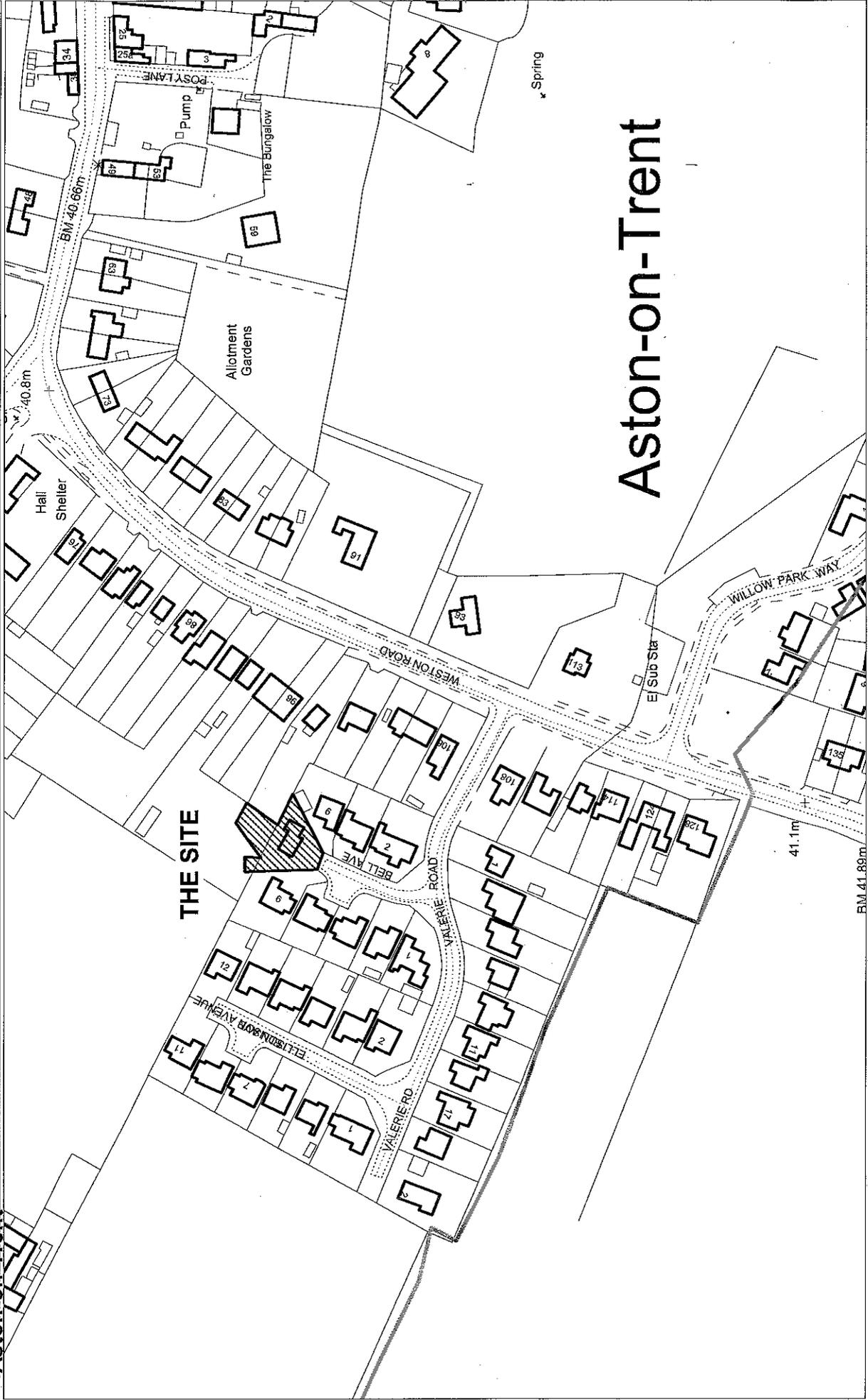
A rear extension is proposed along with the provision of parking spaces on the adjacent land, forming part of the garden to 92 Weston Road. A carport would be provided for doctors' parking.

An additional entrance door is proposed to enable direct access from the parking area at the rear. The existing front door would be retained.

Applicants' supporting information

- a) Implementation of the scheme is dependent upon the outcome of 9/2007/1260/F.
- b) An extra consulting room and much needed storage space for the dispensary would be provided. The 4 new parking spaces would alleviate problems of parking in the street. Two of the existing doctors' parking spaces would be relocated to the new carport, obviating the need to continue reversing into Bell Avenue.
- c) The new extension would be in keeping with the host building.

9/2007/1317/F 8 Bell Avenue
Aston-on-Trent



Aston-on-Trent



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DISTRICT COUNCIL
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE DE11 0AH

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- d) The increased facility would reduce waiting times and be of benefit to the community.

Responses to Consultations

The Parish Council considers the proposal to depend on 9/2007/1260/F to which it objects, and raises the following matters:

- a) There is not enough information to make a judgement, but the proposal is ill conceived and should be refused.
- b) The parking details are inadequate.
- c) On street parking problems would be exacerbated and would be dangerous.
- d) There may be hazardous chemicals at the premises.
- e) Responses to the Aston Village Plan identified community concern about new development and traffic related issues.
- f) Whilst a larger and more accessible surgery would be welcomed an alternative scheme should be proposed.

The Highway Authority and Environmental Protection Manager have no objection in principle.

Responses to Publicity

A neighbour raises the following objections:

- a) The description of the carport is misleading as it has solid walls and a door. It would negate some of the proposed parking provisions and there would thus be more parking in Bell Avenue.
- b) The relocated surgery door would result in hazards to pedestrians.
- c) There would be increased danger to residents of Bell Avenue from traffic passing through the site.
- d) Normal access and use of Bell Avenue would be disrupted during building works.

Development Plan Policies

The relevant policy is:

Local Plan: Community Facilities Policy 1.

Planning Considerations

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

- The principle.
- Residential amenity.
- Visual amenity.
- Highway safety.

Planning Assessment

The development would lead to an enhanced community facility contributing to the sustainability of the village. As such it is acceptable as a matter of principle. Whilst the applicant has made it clear that commercial imperatives link its implementation to 9/2007/1260/F it remains the case that this planning application must be treated on its own merits.

Whilst capacity of the surgery would be increased its scale would still be commensurate with the community that it serves and thus would not likely cause demonstrable harm to the amenities of neighbours. The extension would be in keeping with existing building and the locality.

On the advice of the Highway Authority there would be no 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 three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Prior to the extension to the premises being taken into use, the parking spaces shall be laid out in accordance with drawing no A002 Rev B. Each space shall measure at least 2.4m x 4.8m, be laid out in accordance with the application drawing, paved in a solid bound material and maintained thereafter free of any impediment to its designated use.
Reason: In the interests of highway safety.
4. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. A202 Rev B received 4 January 2008.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

Informatives:

Any current ground gas protection measures should be retained and the new extension should maintain the integrity of the existing measures. Measures should also be incorporated in the new extension to prevent the accumulation of hazardous gases.