

REPORT OF THE DIRECTOR OF COMMUNITY AND 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 also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) responses to County Matters and strategic submissions to the Secretary of State.

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

Item 1.1

Reg. No. 9/2014/0365/RSD

Applicant:
Mr James Smith
C/O Agent Peveril Homes Ltd
/ Shape Commercial

Agent:
Mr Paul Stone
Signet Planning Ltd
Strelley Hall
Strelley
Nottingham
NG8 6PE

Proposal: **THE ERECTION OF 38 DWELLINGS, ACCESS AND ASSOCIATED INFRASTRUCTURE ON LAND AT SK2919 4487 YARD CLOSE SWADLINCOTE**

Ward: **SWADLINCOTE**

Valid Date: **28/05/2014**

Reason for committee determination

This application is brought before the Committee as it is a major application where more than two objections have been received.

Site Description

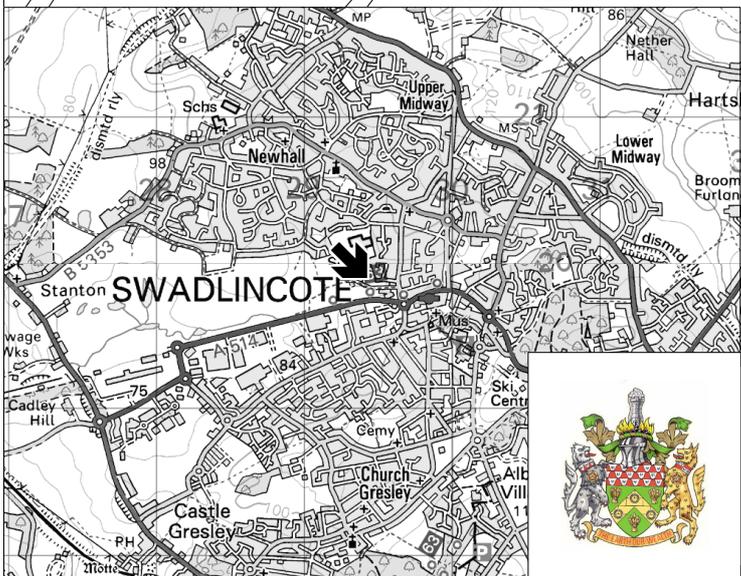
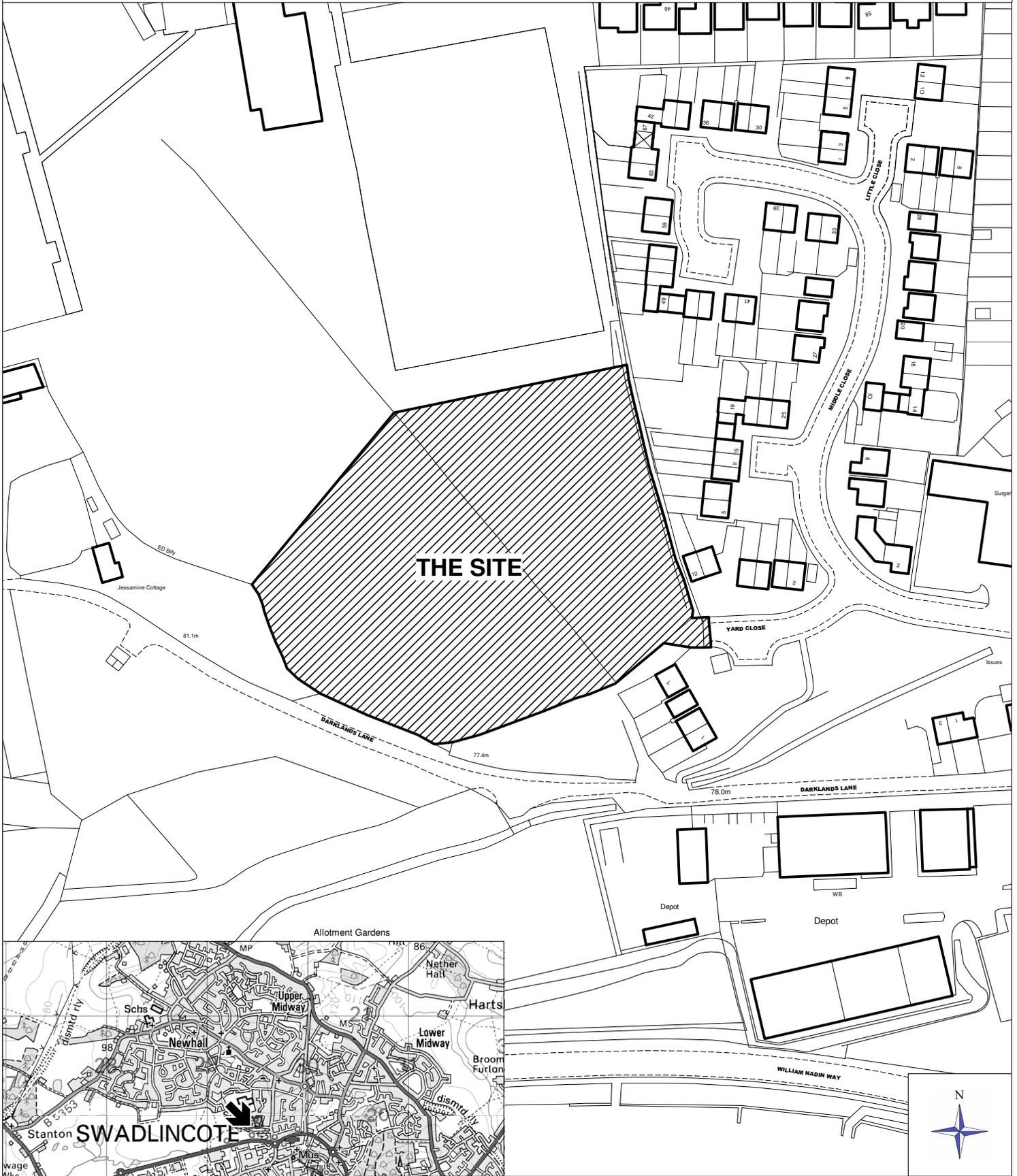
This 1.02 hectare site is located to the north west of Swadlincote town centre, immediately to the west of Yard Close. The Pingle School grounds abut the site to the north. An application (9/2013/0818) for 158 dwellings on land to the south west has recently been granted. This site currently has a cluster of three dwellings and farm buildings at the end of Darklands Lane to the north west of the site and there are allotment gardens to the south.

This site is roughly circular in shape and is an overgrown field with a gradual fall in topography of around 7 metres from the north to south west with gradients between 1 in 8 and 1 in 30. The rear gardens of residential properties on Yard Close and Middle Close bound the site to the east.

Proposal

Full planning permission is sought for 38 dwellings with access off Yard Close. The proposal includes a mix of 1, 2 and 3 bedroom semis and 3 and 4 bedroom detached dwellings. The estate road would be circular with dwellings facing close to the road frontage and car parking to the side. An area of open space is proposed in the form of a

9/2014/0365 - Land at SK2919 4487 Yard Close, Swadlincote (DE11 0EE)



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LAP (Local Areas for Play, small landscaped areas designed for young children (under 6's)) in a central location.

An informal area of open space with tree planting and hedgerows is proposed on the southern boundary.

Applicants' supporting information

The Design and Access Statement sets the policy context and site context. It describes local character of the Victorian terraces found close to the town centre and the more modern semi-detached properties that are found in the vicinity of the site. The surrounding facilities and services are identified such as surgeries, schools and shops. The site constraints are the adjoining residential properties and the school together with drainage easements that run around the edge of the site. The final design is then detailed in terms of: gateway buildings and dual aspect properties, designing out crime, 3D perspectives, landscaping and parking.

The Planning Support Statement describes the site and the proposal. It summarises the supporting documents. It assesses the site in terms of planning policy. It states the proposed dwellings would be 100% affordable housing and concludes the proposal accords with planning policy.

The Ecological Report states the survey work was carried out in November 2013. It identifies hedgerows on the eastern and western boundaries together in the centre of the site but concludes they have limited ecological value. Evidence was found that Badgers were active in the area and as such recommends controls during works on site to minimise disturbance. The Herpetofauna survey was completed 'out of season', however, no evidence was found. It concludes that there are no ecological constraints to development.

A Reptile Study was undertaken in September 2014 (the optimal time of year) and no evidence of reptiles was found.

The Phase 1 Geo-Environmental Report describes the site and its history. The site has been undeveloped since the 1880's through the western part of the site has been used as an access to a greyhound stadium. The site is in the likely zone of influence of 7 no. coal seams, last worked in 1946 and ground movement from these workings should now have ceased. The Coal Authority believes there is coal at or near the surface which may have been worked in the past. The report indicates that there is a low risk to controlled waters; however, ground gases require monitoring. It makes recommendation on what the Phase II investigations should be, such as open hole drilling, installation of monitoring wells in boreholes, trial pitting and trial trenches.

The Flood Risk Assessment states the site falls within Flood Zone 1 with a low probability of flooding. The nearest watercourse is Darklands Brook, located 25m to the south, some 2m below the lowest point of the site. It proposes disposal of surface water to the watercourse via an existing sewer. In order to reduce the surface water run-off a combination of Sustainable Drainage Systems, attenuation in the form of below ground tanks / oversized pipes or above ground swales/detention basins and flow rates analysed are proposed.

Planning History

As a former part of the extensive Pingle School land, outline permission for the residential development of about half of the site (eastern side) was granted by Derbyshire County Council in 1990 but then lapsed.

Responses to Consultations

The County Highways Authority has no objection to the application subject to conditions relating to: provision of a site compound, wheel washing facility, the access, estate roads, parking and manoeuvring areas, a restriction on garage use, gates and surface water drainage works.

Derbyshire Wildlife Trust advises that the new reptile survey is sufficient and no further survey work is necessary. The Trust did a site visit in September and concluded that the site is not of sufficient quality to qualify as a local wildlife site, however, the central hedgerow provides the main ecological interest. If it is not possible to retain the hedgerow then adequate compensatory native hedgerow planting should be provided. The Badger mitigation measures and biodiversity enhancement measures should be attached as conditions and an informative relating to works during the bird nesting season.

The Contaminated Land Officer states that as the site is on and within influencing distance of historical activity that could give rise to pollution, a phased contamination condition is recommended.

Severn Trent Water has no objection subject to a drainage condition and an informative relating to the public sewer on site.

The National Forest Company would expect 20% of the site area to be for woodland planting and landscaping, which equates to 0.2Ha. The amended plans includes tree planting in the locations suggested in their original response.

The Coal Authority has no objection subject to a condition for further site investigation works and remedial works.

The County Archaeologist states there are no archaeological indicators on site and as such the potential for undiscovered archaeology is low.

Derbyshire County Council's Developer Contributions Officer states that the following contributions are required:-

- £1,087.18 financial contribution (£28.61 x 38 dwellings) towards the provision of a new HWRC in South Derbyshire;
- Access to high speed broadband services for future residents (in conjunction with service providers);
- Undertaking of a full ground investigation;
- £25,688 financial contribution towards the acquisition of land to construct a Greenway;
- £34,197.03 financial contribution towards 3 infant school places at Elmsleigh Infant and Nursery School;
- New homes designed to Lifetime Homes standards.

The County Council strongly promotes SuDS to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train. It is requested that the developer contributes £25,688 (£37,500 cost per km of land acquisition x 0.685km) to fund the acquisition of 685 m of land for a Greenway from Darklands Lane to the junction of Public Rights of Way Footpaths No.s 46 and 47.

The Council's Tree Officer considers the few trees on site are not of significant value or worthy of a TPO. The hedgerows are considered to be valuable in terms of visual amenity and conservation habitat.

The Police Crime Prevention Design Advisor considers that the amended plans have addressed all previous concerns in terms of natural surveillance of parking areas and defensible space. However, the need for the footpath link is questioned. No fencing detail is proposed and secure gated gardens should be secured by condition.

Natural England has no objection as the proposal is unlikely to affect any statutorily protected sites.

The Environment Agency has no objection to the application and recommends a surface water drainage condition and informatives relating to SUDS, storage of fuel during construction and reduction in water usage.

Responses to Publicity

Four letters of objection have been received and they are summarised as follows:

- a) On street parking for the doctor's surgery occurs on Yard Close and Middle Close and the proposal for potentially another 26 vehicles would increase the danger on the roads.
- b) The site should use Darklands Lane for access.
- c) There is a TPO at the rear of 9 Middle Close and a hedge on the boundary with Middle Close properties.
- d) The development for 158 dwellings together with this application would increase on street parking on the roads as they would use the surgery.
- e) The on-street parking is adjacent to junctions, the surgery entrance and the turning head restricting access for residents and emergency vehicles.
- f) The access is not suitable for the inevitable increase in traffic as Yard Close and Middle Close are not wide enough and the junction of Yard Close with Middle Close is situated on a bend.
- g) Traffic calming should be included to improve safety if permitted.

One letter of support was received which stated the site has limited aesthetic value, adjoins an existing build up area and the design of the houses is appropriate to the area.

One letter has been received in relation to the re-consultation with concerns regarding the parking in relation to the surgery and its impact on safety.

Development Plan Policies

The relevant policies are:

Local Plan: Housing 4 and 11, Environment Policy 9 Transport 6, Recreation and Tourism Policy 4

Emerging Local Plan
Policy S2 : Presumption in Favour of Sustainable Development
Policy S4 : Housing Need
Policy H1 : Settlement Hierarchy
Policy SD1: Amenity and Environmental Quality
Policy SD2: Flood Risk
Policy BNE1: Design Excellence
Policy BNE2: Biodiversity
Policy INF1: Infrastructure and Developer Contributions
Policy INF8: The National Forest
Policy INF9: Open Space, Sport and Recreation

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 10,11, 12, 13,17, 32, 34, 47, 49, 56, 57,58, 60, 61, 72, 118, 120, 121.
- National Planning Practice Guidance (NPPG) 2a, 3, 8, 23b, 26, 33, 37, 42

Planning Considerations

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

- Principle of Development
- Residential Amenity
- Design and Building for Life
- Ecology
- Flood Risk and Attenuation
- Viability and Section106 contributions
- Affordable Housing

Planning Assessment

Principle of Development

Paragraph 47 of the NPPF seeks to boost significantly the supply of housing providing a considerable emphasis on bringing forward high levels of housing provision as soon as possible. Paragraph 49 states that 'housing applications should be considered in the context of the presumption in favour of sustainable development'. The site is within the main urban area of Swadlincote and is thus a highly sustainable location for further residential development.

Local Plan Housing Policy 4 states that residential development within the built-up area of Swadlincote is permitted provided that the site is substantially surrounded by development. The site is located close to the centre of Swadlincote and has a school to the north and existing residential development to the east and north west. Permission for residential development for the site to the south west has recently been granted. The proposal therefore accords with this Policy.

The site is within walking distance of local services, facilities and employment, therefore the site would be considered to be a sustainable location for development whereby

there would not be a reliance on the private car. The development is close to a principal road network and the access would be linked to the existing estate road off Yard Close.

Therefore residential development in this sustainable location (being well within the Swadlincote urban area) which is substantially surrounded by development is considered acceptable in principle.

Residential Amenity

The proposal has been assessed in relation to the Council's space about dwellings guidance which seeks to protect the occupiers of the existing dwellings from overlooking and to protect their privacy. The proposal complies the minimum distances required as set out in this guidance and as such the proposed dwellings would not have a significant impact on the amenity of existing properties on Yard Close and Middle Close.

The existing hedgerow on the eastern boundary would be retained to ensure that sufficient screening mitigates the impact on existing residents. Due to the topography of the site, a land level condition would be placed on any permission in order to further control the level of amenity for these residents.

Design and BfL

Good design encompasses: improving the quality of the area for the lifetime of the development, establishing a strong sense of place, incorporating a mix of uses such as public open space, responding to local character through design and materials, creating safe and accessible environments with a good level of natural surveillance and are visually attractive.

Housing Policy 4 states that residential development within the urban area is acceptable provided it is of a suitable scale and character. Similarly, paragraph 17 of the NPPF seeks to secure high quality design and good standards of amenity. In this case the key principles of Building for Life have been achieved in creating affordable, functional and sustainable homes thus complying with these policies.

The circular layout of the highway ensures properties all face the public realm and private gardens have sufficient amenity value. The LAP and informal open space along the southern boundary would be overlooked and enhances the area. The layout and availability of green space accords with the criteria within Housing Policy 11 and the tree planting proposed is in recognition of its National Forest location.

The proposed design and layout of the site would be sympathetic to the neighbouring residential development by retaining existing boundary hedgerows. The highest quality house types are located on corners and dwellings terminate views. Good natural surveillance of car parking areas and streets has been achieved through negotiation in light of the Police crime prevention officer's comments. The footpath link to Darklands Lane is essential to aid connectivity with the area. The dominance of the highway has been reduced at the entrance to the site and surrounding the play area through the use of block paving. A strong landscaping scheme that includes hedgerows enclosing front gardens to provide a street character is essential and can be secured through a condition. Overall the scheme reaches the Council's benchmark Building for Life Score of 14 (good).

Transport Policy 6 states that provision should be made for adequate access, parking, and manoeuvring and off street provision. The highway will be constructed to an adoptable standard and as a result no objections have been raised from the County Highways Authority.

Ecological

The Ecological Report states the survey work was carried out in November 2013. It identifies hedgerows on the eastern and western boundaries together in the centre of the site but concludes they have limited ecological value. Evidence was found that Badgers were active in the area and as such recommends controls during works on site to minimise disturbance. The Herpetofauna survey was completed and it concludes that there are no ecological constraints to development.

Derbyshire Wildlife Trust considers the new survey to be sufficient as it has been carried out at the optimal time of year and concludes no evidence of reptiles on the site. The Trust considers the central hedgerow to be the main ecological interest in the site and if it cannot be retained then compensatory planting along the northern boundary is considered necessary. This can be secured by condition. The Badger mitigation measures and biodiversity enhancement measures should be attached as conditions with an informative relating to works during the bird nesting season.

Environmental Policy 9 seeks the protection of trees and woodlands and states that conditions should be imposed to secure the planting of trees and woodlands in association with development proposals. This proposal includes the retention of the existing hedgerows on the eastern and south western boundaries and a sufficient level of tree planting within the National Forest guidelines should be secured through a landscaping scheme condition.

Flood Risk and Attenuation

The site is located within Flood Zone 1 with a low probability of flooding. The nearest watercourse is Darklands Brook, located 25m to the south, some 2m below the lowest point of the site. Council records indicate there is no known local historic flooding on the site.

The detailed drainage scheme has not been included in the site layout. However the applicants have confirmed that they envisage a combination of plot level SuDS features such as permeable paving and filter trenches, supplemented by either a pond or large subterranean pipes. The former would be along the Southern boundary, the latter within the road network or in the same zone along the Southern boundary. This can be dealt with through a condition. The Environment Agency and the Council's Drainage Officer consider the above proposal sufficient to manage the surface water.

Viability and Section 106

Paragraph 173 of the NPPF requires that developments be considered for viability to ensure that developers and landowners secure competitive returns and schemes are therefore deliverable.

The viability assessment submitted has demonstrated that, were contributions to be secured by a S106 agreement, the development currently proposed would not be

viable. The District Valuer has assessed the viability based on the scheme being 100% affordable housing.

Affordable Housing

Chapter 6 of the NPPF seeks to ensure the delivery of a wide choice of high quality homes and in particular paragraph 50 states that LPAs should target size, type, tenure and range of housing that is required in particular locations, reflecting local demand. The LPA accepts that the concentration of affordable housing in one development does not conform to the pepper potting philosophy of mixing affordable and market housing. However, evidence reveals that the viability of market housing schemes in the urban area are not capable of guaranteeing the delivery of all affordable housing indicated in the SHMA. As such, when opportunities arise for securing permission to deliver further affordable housing outside of the Section 106 delivery process, they should be taken. Negotiations have ensured that the development will provide a good mix of dwellings in accordance with the requirements of Housing Policy 9.

The site is ideal for this type of tenure as it is within close proximity of the town centre and on main bus routes giving residents very good access to local services. The mix of dwellings is considered to provide a more sustainable mix and would help meet the demand for affordable dwellings in the Swadlincote urban area.

Conclusion

The principle of residential development is considered acceptable in this sustainable location adjacent to existing residential properties and accords with the Governments commitments to protecting and enhancing the quality of the built environment, in urban areas, which is highlighted in the NPPF. The design, scale and layout are considered to compliment the local character and enhance the area. The residential amenity of neighbouring properties would not be unduly affected. Issues have been addressed and conditions are recommended. The proposal therefore complies with the Local Plan Policies and the NPPF.

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 no's 7009 P 02, 7009 P 01 K, 7009/P/10, 7009/P/11A, 7009/P/12A, 7009/P/13A, 7009/P/14A, 7009/P/15, 7009/P/16, 7009/P/17A, 7009/P/20C, 7009/P/21A and 7009/P/22.

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

3. No development shall take place 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 flood protecting and pollution control.

4. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, both on and off site.

5. 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 dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

6. 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. In particular the treatment of the northern boundary with the Pingle School land shall be sufficiently robust to reflect its proximity to the adjacent play area and hawthorn hedge. The boundary treatment scheme 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 amenity of future occupiers of the scheme and the appearance of the area.

7. 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.

8. 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 shall 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 shall 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.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (as amended), none of the dwellings hereby permitted shall be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

10. 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.

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 additional planting along the northern boundary, 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 and in compensation for the loss of hedgerow.

12. 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.

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

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

14. The mitigation measures set out in paragraph 4.3 of the AA Environmental Ecology Report dated March 2014 shall be implemented in full at the appropriate times during construction.

Reason: To minimise disturbance to protected species.

15. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for the storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

16. Throughout the period of construction within any phase vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud or other extraneous material on the public highway.

Reason: In the interests of highway safety.

17. Prior to commencement of development a new estate street connection shall be formed to Yard Close in accordance with the application drawings, laid out and constructed to base level.

Reason: In the interests of highway safety.

18. Prior to the occupation of any of the dwellings new estate streets between each respective plot and the existing public highway shall be laid out in accordance with the application drawings to conform to the County Council's design guide,

constructed to binder course level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

19. Prior to occupation of any of the dwellings space shall be provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents, visitors, service and delivery vehicles laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 the garage accommodation/ parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: In the interests of highway safety.

21. No gates shall be erected within 5m of the highway boundary and any gates elsewhere shall open inwards only.

Reason: In the interests of highway safety.

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

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

23. No development shall commence until a scheme for the provision of the affordable housing hereby permitted, as detailed on approved plan 7009 P 01 K, has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:

1) the tenure of the affordable housing provision to be made which shall consist of not less than 38 dwellings;

2) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL involved);

3) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

4) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To ensure the provision of affordable housing.

24. Prior to the commencement of the construction of any dwellings on the site, the eaves and verge details shall be submitted to and approved in writing by the

Local Planning Authority and implemented in accordance with the approved details.

Reason: To safeguard the appearance of the dwellings and the locality generally.

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 http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp 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: pollution.control@south-derbys.gov.uk.

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

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

Submitted with this application was William Saunders' Phase I Geo-environmental Report (Job No: 10901/12, November 2013). The Council's Contaminated Land Officer has reviewed this report and is happy that the investigatory and environmental risk

assessment goes as far as to satisfy part of the conditions above. He agrees with the report's recommendations (Section 9) and supports the proposed further investigation scope put forward.

Any potential remaining phased risk assessment and validation reporting should continue be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A. 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.

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 http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp. 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 Environmental Protection Officer (contaminated land) in the Environmental Health Department: thomas.gunton@south-derbys.gov.uk.

Further guidance can be obtained from the following:

- " CLR 11: Model Procedures for the Management of Contaminated Land
- " CLR guidance notes on Soil Guideline Values, DEFRA and EA
- " Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- " Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency
- " Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775
- " CIRIA C665: Assessing risks posed by hazardous ground gases to buildings

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of the Economy, Transport and Environment

Department at County Hall, Matlock (tel: 01629 533190). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.

Highway surface water shall be disposed of via a positive, gravity fed system (ie; not pumped) discharging to an approved point of outfall (eg; existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soak-aways for highway purposes is generally not sanctioned.

Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980. Construction works are likely to require Traffic Management and advice regarding procedures should be sought from Dave Bailey, NE Traffic Management, 01629 538686.

The Environment Agency advises the surface water drainage scheme shall include:-

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.
- Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

The Environment Agency advises the following:-

During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.

It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Power showers are not recommended as they can consume more water than

an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.

During construction you are requested to ensure that your or any other contractors' vehicles are parked legally and in a manner that shows consideration to the occupiers of adjacent and nearby properties. Thank you for your co-operation.

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

Item 1.2

Reg. No. 9/2014/0749/NO

Applicant:
Mrs Hannah Hunt
Estate Office
Egginton Hall
Egginton
DE65 6HP

Agent:
Mr Darryn Buttrill
Bi Design Architecture Ltd
79 High Street
Repton
Derbyshire
DE65 6GF

Proposal: NEW BEAUTY SALON WITH GARDEN AND PATIO
AREA AT HILTON HOUSE HOTEL MILL LANE HILTON
DERBY

Ward: HILTON

Valid Date: 07/08/2014

Reason for committee determination

The item is presented to committee at the request of Councillor Plenderleith as local concern has been expressed about a particular issue.

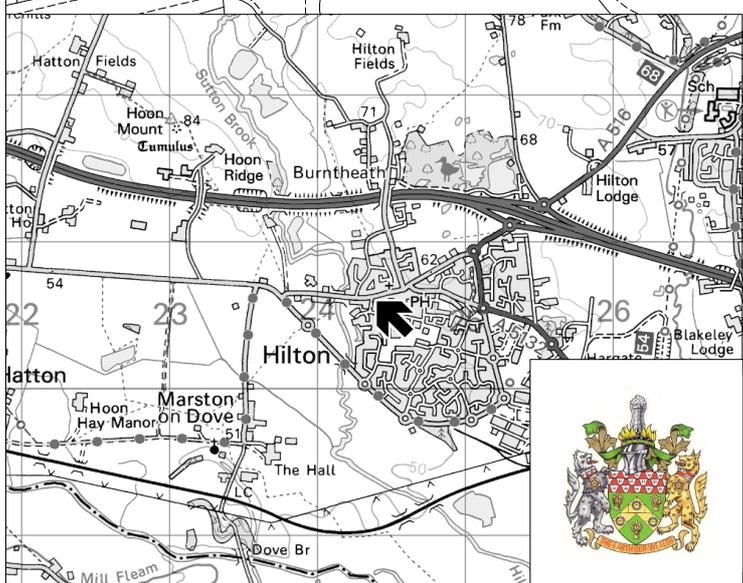
Site Description

The application site is part of the grounds of Hilton House Hotel, an established hotel and restaurant located on Mill Lane at the corner of Main Street. The part of the site the subject of the application fronts Main Street and lies to the west of properties on Wakelyn Close. The land levels are such that the existing ground is somewhat higher than Main Street. The application site lies within the village boundary for Hilton and there are two trees protected by preservation orders located within the grounds but not the part the subject of the application. There are trees/bushes on the eastern boundary, adjacent to 3 Wakelyn Close as well as a hedge to the Main Street frontage with the remaining land currently laid to grass.

Proposal

The proposal has been amended during the consideration of the application and comprises the erection of detached, two storey building fronting onto Main Street constructed from a variety of materials, being red facing bricks, Oak cladding with Staffordshire Blue plain clay tiles. The front elevation presents gable features of predominantly glass. The proposal would create a beauty salon comprising pedicure area, manicure area sitting area and sauna area with associated changing facilities at ground floor level with treatment areas and staff room above. An area of the first floor

9/2014/0749 - Hilton House Hotel, Mill Lane, Hilton, Derby DE65 5GP



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accommodation has been earmarked for future development, though this would be ancillary space. An outside garden/patio area is also proposed including a jacuzzi.

No new vehicular access or parking is proposed to serve the development and pedestrian access to it would be from the hotel adjacent (sharing the existing hotel car park) as well as from Main Street which has the benefit of a public car park almost immediately across the road via new steps.

Applicants' supporting information

The application is accompanied by a Design and Access Statement which explains the proposed use and states that the building has been designed to complement the local vernacular with traditional materials. It states that the facility will enhance the area leading to potential for the area to attract other quality developments to the area, impacting positively on the local area.

Relevant Planning History

None.

Responses to Consultations

The Council's Environmental Health Officer has no objection to the development.

The County Highway Authority raises no objection to the proposal.

Severn Trent Water raises no objection subject to a condition relating to the submission of details of foul and surface water disposal.

Responses to Publicity

Hilton Parish Council objects to the proposal on the grounds that:

- i) The proposed development will overshadow adjacent properties.
- ii) It is far too close to surrounding properties.
- iii) The external spiral staircase will impede privacy of surrounding properties.
- iv) It is too large and excessive for its position and unnecessarily and unreasonably close to surrounding properties.

Four objections have been received on the original proposal raising the following concerns:

- a) The east elevation shows a first floor window opposite a neighbour's bathroom;
- b) The external staircase will mean patrons will be able to see directly into a neighbouring garden invading privacy and reducing the enjoyment of gardens;
- c) The building will cut out light to a garden particularly late afternoon/evening;
- d) a garden should also be covered by the 45 degree rule;
- e) A neighbour already suffers noise late at night and the summer months will be worse especially with a hot tub;
- f) A neighbour has not received notification;
- g) the patio area may be hired out;

- h) It is not sustainable as there are already two well established businesses as well as mobile ones operating;

Two further objections were received on the amended plans raising the following concerns:

- a) Whilst delighted to see the external stairs and first floor windows towards neighbouring property removed, the two storey building is still too close impacting on light coming into a garden, particularly in the afternoon and evening;
- b) another neighbour is set beyond their rear wall and this will mean they are boxed in on both sides;
- c) It should still be moved forward to reduce the impact on a neighbour;
- d) It is still quite large with the majority of the first floor of no designated use, suggesting a smaller building would suffice;
- e) The revised plans have not effectively answered concerns in respect of noise pollution from the outdoor hot tub area;
- f) The salon business is still not sustainable in Hilton.

Development Plan Policies

The relevant policies are:

Saved Local Plan 1998: Employment Policy 8 (E8) and Transport Policy 6 (T6).

Emerging Development Plan Policies

The relevant policies are:

Submission Local Plan Part 1: Policies SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence) and INF2 (Sustainable Transport).

National Guidance

National Planning Policy Framework (NPPF) paras 7, 9, 17 and chapter 1.
National Planning Practice Guidance (NPPG).

Local Guidance

Housing layout and design SPG

Planning Considerations

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

- The principle of development;
- The impact on the highway safety;
- The impact on neighbours;
- Design.

Planning Assessment

The principle of development

The Local Plan lends support to the expansion of existing businesses and tourist facilities within sustainable locations and Hilton is considered a sustainable settlement. The NPPF lends great weight to the proposal given it would provide local economic benefits. The proposal, whilst an independent facility, complements the existing hotel business well and will provide a better “offer” for users of the hotel, helping to sustain that business whilst not competing with the services it provides, hence patrons could use the hotel car park. Furthermore the proposal would also serve the wider population and to this end a pedestrian access to Main Street is proposed. Whilst the comments received in respect of the other businesses offering similar services are noted, it is considered that the increase in competition in itself is not a reason for refusing the proposal and as stated above may well help to sustain the existing hotel business. In light of the above the principle if the development is considered to be acceptable.

The impact on the highway safety

The existing access to the hotel is substandard therefore it is important that the new development does not lead to significant increases in vehicular traffic to render the development detrimental to highway safety. The County Highway Authority originally raised concerns to this end but has since concluded that as there would be patrons using the hotel that would also use the proposed facility and there is a public car park across Main Street which will be accessible via the pedestrian link to that frontage to serve the wider population. As such they are of the view that they cannot show there to be any demonstrable harm to highway safety to reasonably recommend refusal of the application. Accordingly in terms of highway safety, the proposal is considered to be acceptable.

The impact on neighbours

Whilst the garden is already in use in association with the hotel, particularly when weddings take place, the proposal would result in an outdoor jacuzzi area being provided immediately adjacent to the boundary with residential properties. This would have the effect of concentrating activity in that location and clearly there is the potential for those activities to generate noise from patrons. In order to take a view of the level of the impact of that element of the proposal on the amenity of neighbours the Council’s Environmental Health Manager has been consulted and it is noted that he raises no objection to the proposal. As a consequence it is considered that the interrelationship between the proposed use and the neighbours would not be unacceptable and accordingly, notwithstanding the concerns expressed by the Parish council and neighbours, that element of the proposal is considered to be acceptable.

With regard to the impact of the building on neighbours, the proposal was amended to ensure compliance with the Council’s adopted spaces standards relative to principle windows of the neighbours. The revised plans have omitted first floor windows on the eastern elevation as well as the first floor of the projecting rear element and the external staircase has also been omitted. Notwithstanding the comments received in respect of the impact on neighbours amenity relative to loss of privacy and overlooking as well as loss of light, overshadowing and overbearance, the proposal is now considered to be acceptable.

Design

In terms of the visual amenity the proposal would result in the creation of a well-designed building that would be of traditional form and materials but would also have a more modern interpretation with the use of extensive areas of glazing to the front gables. There are a variety of building types within the village that reflect its development over the years and whilst the design of the existing dwellings to the east on Main Street area of their time, given the design and appearance of the existing hotel and buildings in the grounds as well as across Man Street, the design approach taken with the proposal would result in a building that would be in keeping with the area and add its own character to this part of the village. Whilst the building would be larger in mass than the properties to the east due to the way the project has been designed, that apparent mass has been reduced through bringing the eaves slightly lower and the use of elements that help to break up the mass. As such the overall appearance of the building is considered to be acceptable.

Conclusion

The proposal is considered to be well designed appropriate development in this location that would complement the services available in the village. The scheme would not be detrimental to highway safety nor result in any undue impact on neighbours. 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. Accordingly the proposal is considered to be acceptable.

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. This permission relates to the revised plan, drawing number 04, received by the Local Planning Authority on 4th November 2014 and any variation to the approved drawings may need the approval of the Local Planning Authority.
Reason: For the avoidance of doubt as to what is approved.
3. Prior to the building hereby approved being first brought into use, full details of both hard and soft landscaping works including means of enclosure and a timetable for their implementation, shall be submitted to and approved in writing by the Local Planning Authority. All landscape works shall be carried out in accordance with the approved details. All means of enclosure shall be retained.
Reason: In the interests of the visual amenity of the area and to protect the amenity of neighbours.
4. All planting, seeding or turfing comprised in the approved details of landscaping agreed by condition 3 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.

5. Prior to the commencement of development samples of the materials to be used in the construction of its external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved samples.

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

6. Notwithstanding the submitted details, further details of (a) the windows, rooflights, Juliet balcony and doors, (b) the eaves, verges, headers and sills, rainwater goods plus fixings, (c) dormers and (d) the chimneys hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. These elements shall be provided in accordance with the approved details prior to the building hereby approved being first brought into use.

Reason: In the interests of visual amenity.

7. Development shall not commence until a scheme for the satisfactory disposal of foul and surface water from the site has been submitted to, and approved in writing by, the Local Planning Authority. No part of the development shall then be occupied or brought into use until the approved foul and surface water drainage works are completed in accordance with the approved scheme.

Reason: To ensure that satisfactory provision is made at the appropriate time for the disposal of foul and surface water.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, suggesting amendments to improve the quality of the proposal and taking time to overcome objections to the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item 1.3

Reg. No. 9/2014/0961/NO

Applicant:
Mr Ben Young
Severn Trent Water Limited
PO Box 5309
Coventry
CV3 9FH

Agent:
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Amec E&I Ltd
Canon Court
Abbey Lawn
Abbey Foregate
Shrewsbury
Shropshire
SY2 5DE

Proposal: **EXTENSION TO AND RECONFIGURATION OF EXISTING
VISITOR CENTRE TO CREATE CAFE AND EXHIBITION
SPACE AT INFORMATION CENTRE STAUNTON
HAROLD RESERVOIR CALKE ROAD MELBOURNE
DERBY**

Ward: **MELBOURNE**

Valid Date: **09/10/2014**

Reason for committee determination

A request has been made by Councillor Harrison for the committee to determine the application if the recommendation is to grant permission without any condition to address the problem of sewerage smells as expressed by local residents.

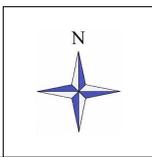
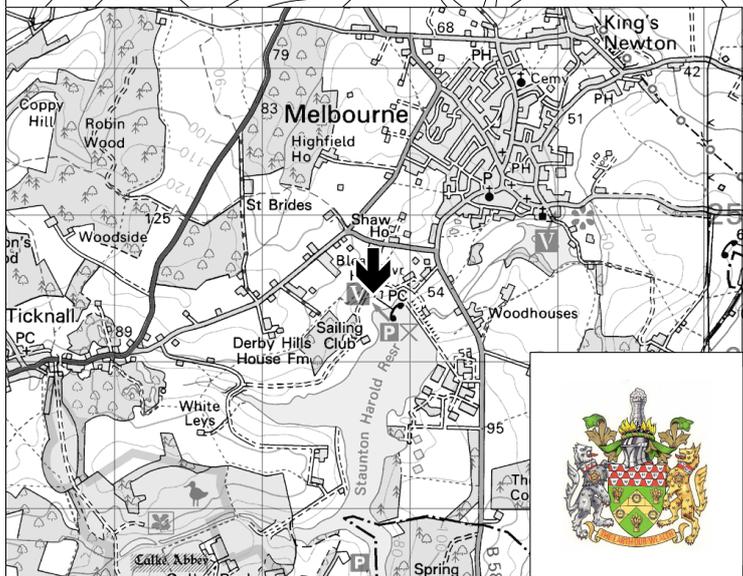
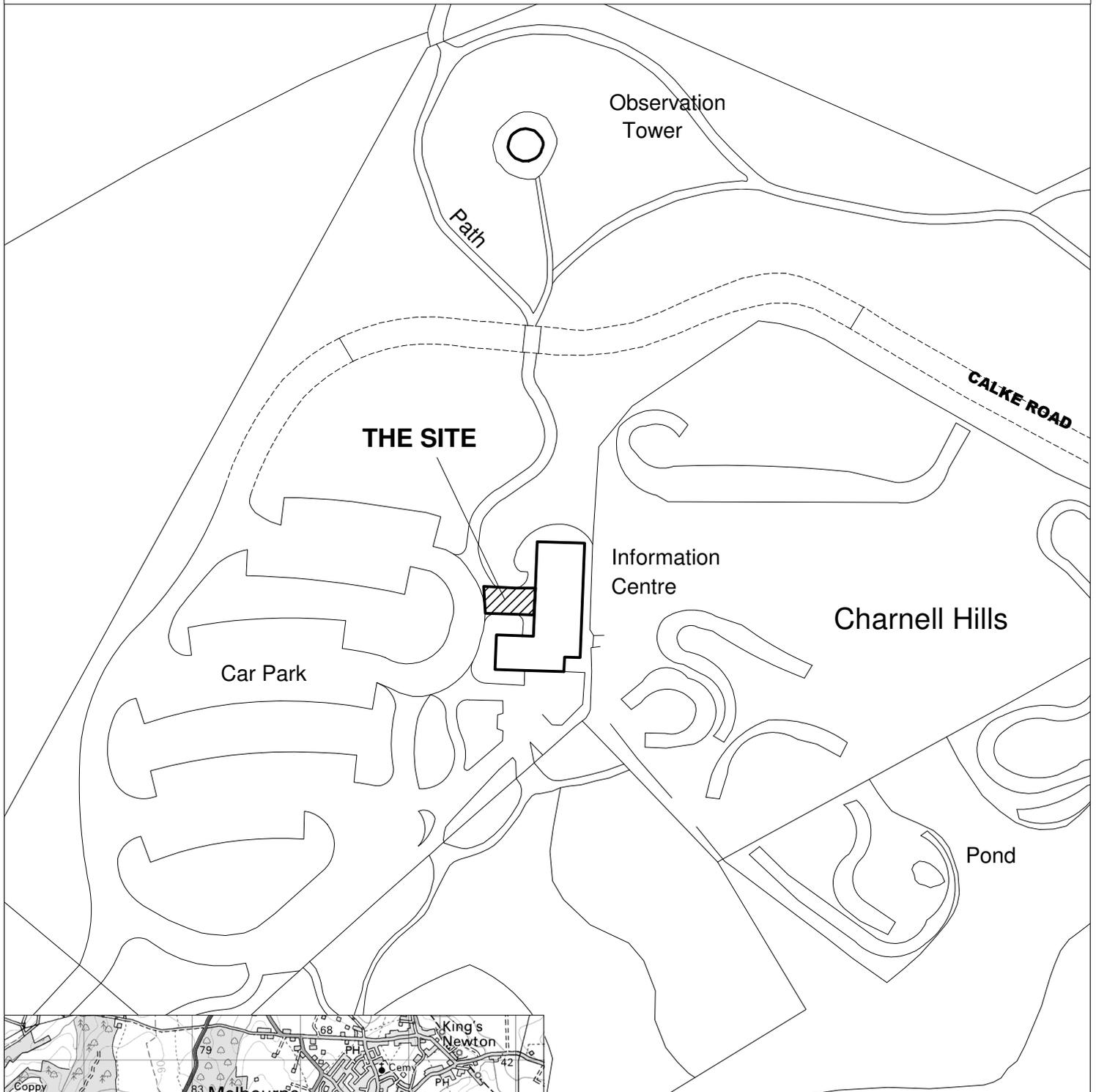
Site Description

The application site is located to the south of Melbourne on the fringe of the District which adjoins North West Leicestershire and relates to a visitor centre associated with Severn Trent's Reservoir. The site is within the designated National Forest but falls outside of the Melbourne Conservation Area. A modest number of properties lie to the north edge of the site, never the less the site occupies a relatively enclosed rural location adjacent to the reservoir and public car park adjoining a small woodland landscape.

Proposal

The application proposes the erection of a modest extension to the store building and internal and external alterations to create a café and exhibition space. A new consortia door system would be incorporated into the southern elevation which would improve the

9/2014/0961 - Information Centre, Staunton Harold Reservoir, Calke Road, Melbourne, Derby DE73 8DN



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South Derbyshire District Council. LA 100019461. 2014

level of natural light in to the building and creates a more active frontage over the stepped and ramped access points down towards the reservoir.

Applicants' supporting information

A supporting statement outlines the proposal and its design and use of materials to reflect the existing building. It states that the proposed extension and change of use would seek to enhance the health of communities and open space, and provide opportunities for recreation by diversifying the visitor centre to provide a core function/role in this facility.

The statement addresses the relevant local plan policies and highlights paragraphs within the NPPF which support the economic growth in rural areas.

A Bat Survey is included in the supporting documents as the ground works for the extension has the potential to disturb any roosting bats within the existing building. The survey determined that no bat roosts were recorded during the survey but activity by two species was recorded. The extension to the building would have a negligible effect on the conservation status of bat roosts. Ecological enhancement will be sought during the development in accordance with the NPPF.

Responses to Consultations

The Environmental Health officer (commercial) has no objection in principle, but advise that the new café/centre will need to meet food hygiene and health and safety regulations therefore would request conditions for provision of waste storage and removal.

The Environmental Health Officer (Pollution) raises no comments.

The County Highways Officer raises no objection

The Wildlife Trust is satisfied with the findings of the ecology report and that there is no presence of Bats within the building therefore no mitigation is required but as per the NPPF enhancement measures are suggested which the Trust support. Adequate survey work has been undertaken. Therefore the Trust would like to request that the enhancement measures suggested in the ecology report are secured through a condition.

North West Leicestershire District Council has no objections to the proposals subject to the Local Authorities consultees being satisfied.

Responses to Publicity

One objection and two comments have been received and can be summarised as:

- Plagued with smells from sewers
- Increased use of the site will exacerbate the problem
- Opportunity to solve ongoing and long term issue
- No objection to extension and café in principle
- Works carried out at pumping station alleviated the problem; this should be carried out as regular maintenance

Development Plan Policies

Saved Local Plan Employment Policy 4, Environment Policy 10 and Recreation and Tourism Policy 1.

Local Plan Part 1 (Examination Stage) Policies:

SD1 - Amenity and Environmental Quality

BNE1 - Design Excellence

BNE3 - Biodiversity

BNE4 - Landscape Character and Local Distinctiveness

INF8 - The National Forest

National Guidance

NPPF (2013) and the NPPG (2014) relevant paras are:

Para 28 of the NPPF supports economic growth in rural areas and seeks to support the sustainable growth and expansion of all types of business and enterprise in rural areas via conversion of existing buildings and well-designed new buildings.

Para 28 of the NPPF also supports sustainable rural tourism and leisure development which respects the character of the countryside.

Para 69 and 70 of the NPPF and the chapter *Open space, sports and recreation facilities, public rights of way and local green space* in the NPPG consider the role the planning system can play in facilitating social interaction and creating healthy communities.

Para 73 of the NPPF and the Health and Wellbeing chapter in the NPPG highlight that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

Par 109 requires development to contribute and enhance the natural and local environment, minimising impacts on biodiversity and providing net gains in biodiversity where possible.

Planning Considerations

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

- Impact upon the local rural economy
- Landscape Character

Planning Assessment

Policy E4 seeks to promote the rural economy which accords with the aims of the NPPF, the proposed alterations to incorporate a café use would diversify the visitor centre in promoting the reservoir as a local attraction. This diversification is not in conflict with other saved policies of the local plan and the extension is of an acceptable scale and design which is sympathetic to the character of the surrounding environment, in accordance with the requirements policy E4, EV10 and R1.

The proposed extension would be sited to the western side of the building and would enlarge the detached store building to provide a new base for the ranger services. The requirements relating to design are that development should respond to its local context and in the case of extensions, respect and compliment their host building. It is proposed that the extension would replicate the architectural style and use of materials of the existing building to reflect the simple proportions and subservient character of the existing building, and the wider area, thereby responding to the local context.

The overall harmony of this rural locality would not be eroded by the development. While the extension would add to the building, its sympathetic design, scale and use of materials is not considered to result in a bulky addition that would be of detriment to the character of the building and would not cause the visitor centre to appear oversized within the context of the site, its revised use provides a multi-functional space for the community that would enhance the rural economy and promote the site as a local attraction for nearby residents in addition to a tourist attraction for visitors to the area which complies with the requirements of policy E4 and E8.

The existing site provides ample parking and turning space for visitor and service vehicles, no additional spaces or works are required to the parking or access road into the site and therefore the proposal complies with policy E8 and R1 in providing parking, manoeuvring and screening.

The planning authority has a duty to consider the conservation of biodiversity when determining a planning application; this includes having regard to the safeguard of species protected under the Wildlife and Countryside Act 1981 as amended, the Badgers Act 1992; the Conservation of Habitats and Species Regulations 2010 and the Countryside and Rights of Way Act 2000 and the EU Habitats Directive. Where a proposed development is likely to affect any of the above, the relevant protected species, ecological and/or geological surveys and assessments must be submitted. The bat survey submitted as part of the application demonstrated that no roosts were found within the building and therefore no mitigation measures are required. However, bat activity was recorded in the area, potentially travelling across the site for foraging in nearby woodlands. As a result the applicants are proposing ecological enhancement measures in accordance with para 109 of the NPPF which will provide a net gain in biodiversity. The Wildlife Trust has requested a condition for details of the enhancement measures. The proposed development would have a neutral impact on the biodiversity of the site and will not result in the destruction or disturbance of a bat roost; therefore the 3 tests set within the EU habitats directive do not need to be met in this instance.

Concern has been raised with regards to sewage odour coming from the drains which are shared between the visitor centre, sailing club and a row of dwellings located adjacent to the entrance of the reservoir site. This relates to an ongoing issue which Severn Trent is aware of and responsible for resolving as the drains are their property. It appears that as the drains are not regularly flushed through from the Sailing Club/visitor centre end; residue builds up and causes the odour. It is understood that regular maintenance of the pumping station would alleviate the problem. The café would increase the level of water being flushed through the system on a more regular basis which could improve the situation. However it is the maintenance of the drains and pumping station by Severn Trent which will resolve the ongoing problem. This maintenance falls outside of the application site and therefore cannot be conditioned. However the issue is not considered to be exacerbated by the works proposed, and therefore the proposed extension and café/exhibition use are considered to preserve

the amenity of neighbouring occupiers. The building is set away from residential properties so as not to cause issues of overlooking or loss of privacy.

The existing opening hours of the visitor centre (kiosk) at weekends and summer holidays would not be altered.

Overall the proposed extension is considered to be of an acceptable siting, scale, size and design and uses appropriate material which complements the design and proportions of the existing building and would not be visually detrimental to the character and appearance of this rural locality. The proposed café/exhibition space is compatible with the current day to day running of the visitor centre and would enhance the character of the building in creating a vibrant and viable business which promotes the rural economy in accordance with the NPPF.

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. No development shall commence until details of refuse storage have been submitted to and approved in writing by the Local Planning Authority. The cafe shall not be operated until the refuse storage has been provided in accordance with the details so approved, and thereafter shall be retained solely for this purpose. No refuse shall be stored outside the building(s) other than in the approved refuse store(s).

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

4. Prior to the commencement of works, a bat enhancement strategy, providing details of the new bat roosting locations to be provided as part of the proposed development, will be submitted to and approved in writing by the LPA. The approved measures must be implemented in full and maintained thereafter.

Reason: To ensure that the conservation status of the various protected species is preserved and/or enhanced in accordance with national and European legislation and current policy.

5. The development hereby permitted shall be carried out in accordance with plan/drawing BMCM0083/SH/002 RevA and BMCM0083/SH004 received on 6th October 2014; unless as otherwise required by condition attached to this permission.

Reason: For the avoidance of doubt.

Informatives:

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

The applicant is advised to contact the Environmental Health Section on all matters relating to food hygiene and health and safety.

Item 1.4

Reg. No. 9/2014/0964/FH

Applicant:
Mr Troy Lee
Church Barn
Chapel Street
Smisby
Ashby De La Zouch
LE65 2TJ

Agent:
Anthony Rice
Urban Designs Ltd
Clay House
5 Horninglow Street
Burton on Trent
Staffordshire
DE14 1NG

Proposal: INSTALLATION OF ROOF LIGHT INTO DWELLING AND
CONSTRUCTION OF DETACHED GARAGE AND
ANCILLARY WORKS AT CHURCH BARN CHAPEL
STREET SMISBY ASHBY DE LA ZOUC

Ward: REPTON

Valid Date: 16/10/2014

Reason for committee determination

This application is brought before committee at the request of Councillor Stanton as local concern has been expressed about a particular issue.

Site Description

Church Barn is a new build single storey dwelling, with accommodation in the roof space, attached to a curtilage outbuilding of the Grade II listed Pitts Farmhouse in the Smisby Conservation Area. Being attached to an outbuilding which fronts and which has level access off Main Street, the application property is located approximately 3 metres below the highway level of Chapel Street.

Proposal

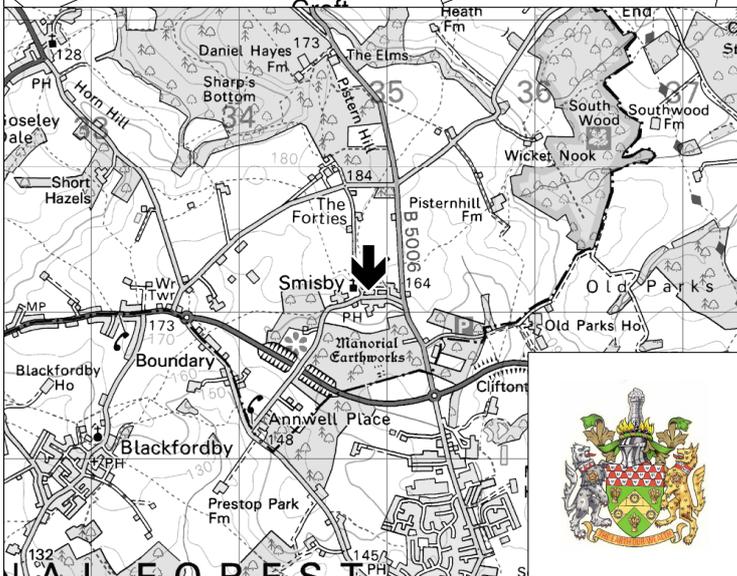
The proposal includes the installation of a rooflight in the north facing roofslope of the property and the erection of a single storey detached garage adjacent to Chapel Street.

Applicants' supporting information

There is no supporting information since Design and Access Statements are no longer a requirement for householder applications in a conservation area.

Planning History

Smisby



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9/0187/0778 – 2 bungalows in side garden of Pitts Farm, Main Street – refused 18/03/87.

9/0791/0372 – detached dwelling – refused 02/10/91 and dismissed at appeal.

9/2002/1338/F – The erection of a detached dwelling with access from Chapel Lane on land forming part of the rear garden of Pitts Farmhouse, Main Street, Smisby – approved with conditions 12/02/03.

9/2006/0940/L – detached dwelling with access from Chapel Lane – Listed Building Consent granted with conditions 04/10/06.

9/2007/1288 – Renewal of application 9/2002/1338/F on Land Forming Part Of The Rear Garden Of Pitts Farmhouse – refused 24/12/07 (unsustainable village location).

Responses to Consultations

Smisby Parish Council has objected to the proposal on the following grounds:

- The size and scale of the proposed garage will dominate the immediate area. The development is within the conservation area and will be very visible from the road and will alter/obscure the view of the church;
- The pitched garage roofline will be significantly higher than that of Church Barn for which it is to be built;
- It is believed that as part of the planning conditions for Church Barn, the developer was required to lower the ground level so that the building would not be so prominent. To allow this application to go ahead would make a farce of these conditions;
- Concern is raised that the proposed garage will block the light from the neighbouring property. The elderly resident living there has raised her own objections in this regards and the Parish Council is in support of her concerns and believe her objection is valid.

Responses to Publicity

10 letters of objection have been received covering the following:

- a) The objector who lives opposite the site fully opposes the proposal as the site is a listed one.
- b) The proposed site of the garage will totally overshadow the next door neighbour's house from every angle and blight the view from every window. The objector's house and garden is somewhat lower than the proposed garage and this will only exasperate the problem. Smisby is a conservation area and the objector refers the Council to pages 16 and 17 of our own publication 'Smisby Conservation Area Character Statement 2013'.
- c) The proposal will greatly impact on the elderly female occupant of Fir Cottage and have an effect on her quality of life as the proposed construction will undoubtedly over-shadow the lower ground floor of the front living room and kitchen. This will block out any direct sunlight that freely falls onto her house, having a negative impact on her daily life and leaving her to live in a dark or dimly lit house overshadowed by an ugly built construction. Smisby village is within a conservation area and is currently condensed into a small but picturesque village. The garage will spoil the beauty of the village and be an eye sore to other residents and other members of the public passing through the area.

- d) Planning permission was refused for a house in the same position and it had to be lowered due to it being far too near the listed building next door. We are in a conservation area and it will spoil the appearance.
- e) The proposed building would be situated in a prominent position within the Smisby conservation area and would affect the visual impact of the south side of Chapel Street which is predominately made up of older cottages and houses. Apart from the recent development at Pitts Farm (Church Barn) which is set back from and below the road level, the proposed building would be the only modern construction in this part of the street. The development would severely affect the adjacent Fir Tree Cottage which it would completely overshadow. The proposed garage would be seen from several points along Chapel Street significantly changing the view for both residents and visitors. Building the garage in this position negates any reason for the great lengths that were taken with Church Barn to minimise the development's impact on Chapel Street and to minimise the overshadowing of surrounding properties and the impact on the overall appearance of the conservation area. Smisby is a conservation area and as such positive features should be retained, replaced or created sympathetically wherever possible. This development would not achieve this as it does not replace an existing building or add a traditional dwelling to the village.
- f) The house [Church Barn] only received planning permission on the understanding that the ground was dug out to lower the roof line. This garage will be on top and will overshadow the windows of the neighbouring cottage, which is old and in a conservation area.
- g) The objector acts as a managing agent for the Harpur Crewe Estate which own Fir Tree Cottage and the development will severely affect their client's property. As their client's right to light is protected under common law and the Prescription Act 1832 there is concern that if the development is permitted the client's property will lose a significant amount of light in the kitchen and living room. Whilst a higher ground level already exists at Church Barn the amount of natural light coming through to Fir Tree Cottage is still sufficient. To allow the development would mean the detached garage would block the vast majority of natural light entering the ground floor severely affecting current and future occupier's enjoyment of the property. The total loss of light will be so severe that only the ground floor windows on the eastern elevation of the property will remain unaffected. Whilst it is recognised that some loss of light is acceptable, the amount lost will make Fir Tree Cottage less fit for purpose as the remaining natural light will be inappropriate. Whilst there is no aversion to some development taking place, it is felt the plans are ill conceived with little consideration to mitigate the impact of the neighbouring property.
- h) We all recognise that no village or town can be preserved in aspic, however to allow a garage which will be in a prominent position next to one of the principal original farm houses in Smisby (Grade II Pitts Farmhouse) and next to St James Church, which is over 1,000 years old, would irrevocably change the character of the village centre. The Council recognised recently that mistakes have been made in Smisby where plans were allowed that with the benefit of hindsight should not have been. The Council should look at the impact the development will have on the special nature of Smisby which is a conservation area and should be protected. The development will also tower over Fir Tree Cottage, again an original dwelling that has been there for many hundreds of years.
- i) From the diagram it appears that the height of the building exceeds need in terms of the storage required. This height 'excess' will also have an unnecessary

and detrimental effect on an adjoining property (Firtree Cottage) as it will reduce internal light levels.

- j) It seems a shame that the closest neighbour to the proposed garage will have a big wall to look at which will block the light to her home that she has lived in for many years. The height of the building does not conform to original barn building conditions of roof heights for conservation areas. Consideration for our neighbours should be a priority when living in our village.

Development Plan Policies

The relevant policies are:

Local Plan: Saved Environment Policies 12 and 13 and Saved Housing Policy 13 of the Adopted Local Plan.

Emerging Local Plan: Policies BNE1 and BNE2.

National Guidance

National Planning Policy Framework (NPPF) paragraphs 11-14 (presumption in favour of sustainable development), 57, 58 and 61 (requiring good design), 186 and 187 (positive decision-taking) and 196 and 197 (determining applications) and Chapter 12 (Conserving and enhancing the historic environment).

National Planning Practice Guidance (NPPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment).

Planning Considerations

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

- The impact of the proposed development on the character and appearance of the conservation area;
- The impact of the proposed development on the setting of the Grade II listed Pitts Farmhouse; and
- The impact of the proposed development on the amenities of the neighbouring properties.

Planning Assessment

The property has had its permitted development (PD) rights removed by condition on the 2002 planning approval in connection with any external alterations to the building hence the requirement for planning permission to be sought for the rooflight. The proposed new rooflight is to light an existing bathroom within the roof space of the property and if conditioned that it will match the existing rooflights in this roof slope, it is considered acceptable from a visual point of view. The proposed alteration would not adversely affect the external character of the host property or the character and appearance of the conservation area in line with the requirements of Saved Environment Policy 12 of the Adopted Local Plan and the condition attached to the 2002 planning approval.

The proposals would not impact on the principal views of the Grade II listed Pitts Farmhouse which has its frontage on Main Street and has therefore been judged not to adversely affect the setting of the listed building in conformity with Saved Environment Policy 13 of the Adopted Local Plan and the emerging plan. Any potential impact on the adjacent Corsican pine can be controlled by use of conditions.

The proposed single storey garage will be sited in the existing parking area associated with the property that has an existing level vehicular access onto Chapel Street. The span and roof pitch of the proposed garage matches that of the host property and it has been orientated side on to the highway with the roof slope angled away from the boundary in order to minimise its impact on the adjacent neighbour (Fir Tree Cottage) which is also orientated side on to Chapel Street with its rear garden facing towards the back of the proposed garage.

The issue of overbearance or overshadowing is one of the main concerns raised by neighbours. The Council's SPG seeks to protect the windows in neighbouring properties from overshadowing from 2-storey extensions only, with single storey extensions being decided on their own merits on the basis of preserving privacy between neighbours. The proposed garage is a non-habitable single storey structure situated alongside the boundary of the site which consists of a 1 metre stone wall with a 2 metre high trimmed hedge in front of it. There are no window openings in the proposed garage elevation that faces the neighbour's garden and as such privacy between the neighbours is preserved.

There is a slight change in ground levels between the application site and the adjacent neighbour (Fir Tree Cottage) with the proposed garage being approximately 0.4 metres above the garden level of the neighbour. As the proposed garage is a single storey structure and orientated so the roof slopes away from the boundary, it has been judged not to overshadow the main ground floor primary windows of the neighbour. As such the proposal conforms to the Council's SPG and Saved Housing Policy 13 in that it would not adversely affect the amenities of the neighbouring properties.

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. The rooflight hereby approved shall match the size and profile of the existing rooflights. The rooflight shall be fitted such that its outer face is flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

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. The work shall be carried out in accordance with the approved details.

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

4. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

5. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

6. Pointing of the existing/ proposed building(s) shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.

Reason: In the interests of the appearance of the building(s).

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

Reason: In the interests of the appearance of the building(s) and the locality generally.

8. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the root protection area of corsican pine tree shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles 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/landscape areas from undue disturbance

10. Notwithstanding the submitted details, prior to the commencement of the development hereby permitted, a foundation excavation method statement for the garage shall be submitted to and approved in writing by the local planning

authority. The approved method of working shall then be employed for the scheme.

Reason: To protect the trees areas from undue disturbance

Informatives:

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

Item 1.5

Reg. No. 9/2014/0992/S

Applicant:
Mr Malcolm Roseburgh
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Angus Cooper
Createability Ltd
Oakmount House (First Floor)
Oakmount Road
Chandlers Ford
Hampshire
S053 2LH

Proposal: CONVERSION OF SQUASH COURTS TO ADVENTURE SPACE (CLIMBING OR SIMULATED CAVING), SPORTS HALL TO BE REFURBISHED AS MULTI-FUNCTIONAL EXERCISE SPACE. ALTERATIONS TO FACILITIES SPACE INCLUDING RAISING HEIGHT OF SQUASH COURT ROOF, ADDITION OF EXTERNAL FIRE ESCAPE STAIR AND REPLACEMENT OF EXISTING ENTRANCE DOORS AT GROVE HALL GREENBANK LEISURE CENTRE CIVIC WAY SWADLINCOTE

Ward: SWADLINCOTE

Valid Date: 27/10/2014

Reason for committee determination

This application is before the Committee because the Council is the applicant.

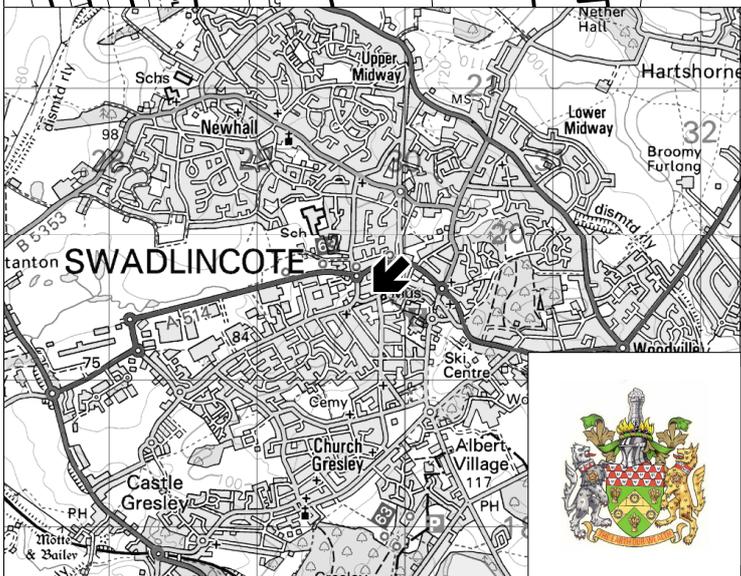
Site Description

Grove Hall is located to the east of the main Green Bank leisure centre. The two storey brick building has a parapet roof and has a 2m lower land level than West Street and Grove Street. There is a small area of open space to the east with 8-10m high trees at the 2m higher land level. The building is located within Swadlincote Conservation Area and to the north west of the Grade II Listed Sharpe's Pottery.

Proposal

Planning permission is sought to raise the height of the Squash Courts in the north western part of the building by 1-2.5 metres and provision of a fire escape staircase on the south western corner together with a new entrance door on the western elevation. The proposed changes are required as part of a Sport England grant for refurbishment

9/2014/0992 - Grove Hall, Greenbank Leisure Centre, Civic Way, Swadlincote DE11 0AD



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which includes conversion of the squash courts to adventure space and improvements to the sports hall and facilities such as a reception and snack bar.

Applicants' supporting information

The Design and Access Statement describes the building and location and includes an assessment with regard to the Conservation Area.

Planning History

None relevant.

Responses to Consultations

The County Highways Authority has no objections.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

Local Plan: Recreation and Tourism Policy 1 and Environment Policy 12

Emerging Local Plan Policies: Policies BNE2: Heritage Assets and INF6 Community Facilities

National Guidance

NPPF paragraphs 17, 23, 70 and 128

Planning Considerations

The main issue central to the determination of this application is the impact on the character and appearance of the Conservation Area.

Planning Assessment

The proposal involves improving an existing leisure facility within Swadlincote town centre which complies with the aspirations of NPPF paragraph 70 which states decision should "ensure that...facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community".

The proposed external changes are not considered to have a significant impact on the character and appearance of the Conservation Area due to their location and scale. The roof would be raised in the north west corner which is furthest away from the main road frontages of West Street and Grove Street. The western elevation faces the service entrance and car parking areas and thus its public views are limited. The impact is also minimised due to the 2m lower land level than these roads.

The proposed staircase to be located in the south western corner would be adjacent the open space between the building and the main leisure centre building. Views would be limited by the lower land level and tree screening. The proposed changes to the building are approximately 45-50 m away from the Grade II Listed Pottery buildings and as such are not considered to have an adverse impact on their setting.

The proposed changes are considered to have a minimal impact on the character and appearance of the Conservation Area and involve improvement of an existing leisure facility within a sustainable location in compliance with the above mentioned policies.

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 under Regulation 3 (General Regulations 1992) 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. Prior to commencement of development the colour and profile of the roof cladding, colour of the fire escape and colour of new doors shall be submitted and agreed in writing by the Local Planning Authority and implemented in accordance with the agree details.
Reason: In the interests of the appearance of the area.

16/12/2014

Item 1.6

Reg. No. 9/2014/1009/B

Applicant:
Sainsbury's Supermarkets Ltd
C/O Agent

Agent:
Miss Rosie Cotterill
Turley Assocs
9 Colmore Row
Birmingham
B3 2BJ

Proposal: THE VARIATION OF CONDITION 17 OF PLANNING PERMISSION 9/0695/0175F TO VARY OPENING AND DELIVERY HOURS BETWEEN 07:00 AND 23:00 MONDAY TO SATURDAY AND BANK HOLIDAYS AND BETWEEN THE HOURS OF 09:00 AND 18:00 ON SUNDAYS AT BUDGENS STORES LTD DERBY ROAD MELBOURNE DERBY

Ward: MELBOURNE

Valid Date: 22/10/2014

Reason for committee determination

Councillor Harrison has requested this application be determined by the committee due to the level of concern expressed by local residents.

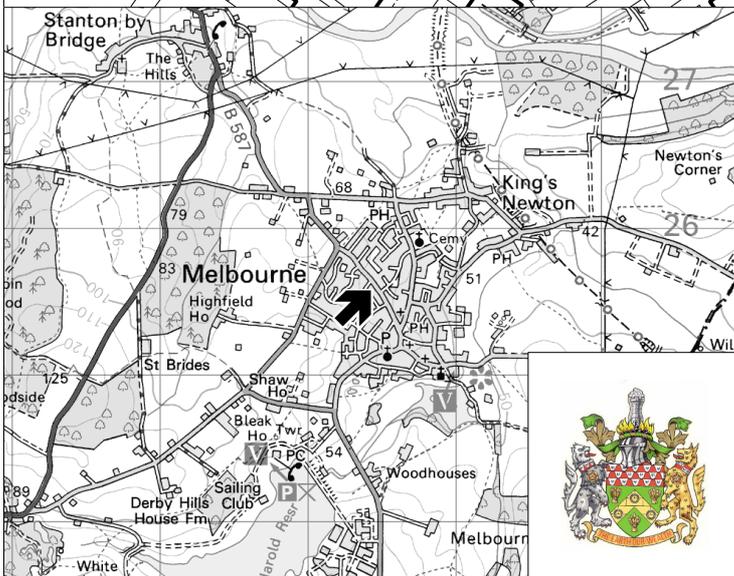
Site Description

The application site is located on the fringe of the village centre of Melbourne and relates to the former Budgens store which occupies a prominent location within the streetscene and sets the divide between commercial and residential properties.

The site lies within the designated Conservation Area of Melbourne and is surrounded on 3 sides by residential properties. Access is provided off Derby Road to a private car park associated within the retail store; this also provides the point of access for deliveries.

Proposal

The application proposal seeks to vary condition 17 of planning application 9/0695/0175 which relates to opening hours and delivery times attached to the original Budgens application. Condition 17 originally restricted opening and delivery hours from 08:00 to



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20:00 hours Mondays to Saturday and 11:00 to 16:00 on Sundays with no deliveries on Sundays.

The applicants seek to amend the opening and Delivery hours; these have been revised in response to concerns of noise and light pollution. The revised opening hours proposed are 07:00 to 22:00 hours Monday to Saturday and 10:00 to 17:00 hours on Sundays. Deliveries with the exception of newspapers would be restricted to 08:00 to 20:00 hours Monday to Saturday as previously approved and 10:00 to 17:00 hours on Sundays.

Applicants' supporting information

A planning statement outlines the proposal and previous applications to amend the opening hours. The document states that there are no relevant saved Local Plan Policies but highlights the emerging policies within the submission Local Plan Part 1 and the NPPF.

A noise survey has been submitted which sought to measure the ambient noise levels at the application site during representative periods of the daytime, evening and night time over the proposed period of openings and delivery hours, and to assess the potential impact of the proposed extended opening/delivery hours on the surrounding residential dwellings.

Base noise levels were taken across a weekend from the neighbouring streets. The report concluded that there was no change in the baseline noise levels between the store being open and closed. The distant traffic noise remained the principal noise source. The report concludes that the potential noise impact is negligible. Therefore the extended opening hours is in accordance with the NPPF and acceptable.

Planning History

9/0695/0175/F – Construction of supermarket and associated parking on land being the site of the former premises of Browne and Sharp and Trent Bus. Granted Permission, January 1996.

9/2005/1045 – Variation of condition 17 of planning permission 9/0695/0175/F to extend opening times on Bank Holidays from 10am – 4pm to 8am – 8pm. Permission Granted, September 2005.

9/2006/0932 – Variation of condition 17 of planning application 9/0695/0175F to read the premises shall be open to customers no longer than between the hours of 08:00 hours and 20:00 hours Monday to Saturday and Bank Holidays and 10:00 hours and 16:00 hours on Sundays. Granted Permission, September 2006.

9/2010/1074 - The variation of condition 17 of planning permission 9/0695/0175/F to vary opening hours Monday to Saturday from 07:00am to 08:00pm. Granted Permission, January 2011.

Responses to Consultations

The Environmental Health Manager raises no objection to the revised hours.

The County Highways Officer raises no objection.

The Melbourne Civic Society does not object to the variation.

Responses to Publicity

Eight objections received in response to original proposal which can be summarised as:

- a) Increase in noise and disturbance
- b) Been kept awake in past when store has not operated within its consented hours
- c) Would negatively affect local residents
- d) Car park open and lit after 8pm would become a meeting point for boisterous young adults
- e) Noise report demonstrates that the store is in a quiet area
- f) Noise report fails to take into account occasional loud noises such as movement of trollies or car horns.
- g) Deliveries before 8:30am should be prevented because large numbers of school children wait outside the store for buses to school
- h) Coming and going of staff at opening and closing hours would generate disturbance
- i) Light pollution would also be an issue if the store is open longer
- j) Damage to the environment
- k) Large lorries are not suitable for the store
- l) Conservation Area is adjacent to the store therefore the restriction on the delivery route should remain.
- m) Sunday opening hours is in contravention of Sunday trading hours
- n) Object to selling alcohol late into the evening
- o) The specific nature of the sounds which occur during the delivery process are more intrusive than general background noise as addressed in the noise survey.

A revised consultation notification has been sent out. Comments made in response to this will be addressed to members at the committee meeting.

Development Plan Policies

The relevant policies are:

Saved Local Plan: Shopping Policy 3

Emerging Local Plan Part 1:

S7 – Retail

SD1 – amenity and environmental quality

National Guidance

NPPF (March 2012) and the NPPG (April 2014):

Para 28 of the NPPF seeks to promote a strong rural economy by supporting the sustainable growth and expansion of all business and enterprise in rural areas.

Para 109 of the NPPF seeks to prevent new developments from contributing unacceptable levels of noise pollution.

Para 123 of the NPPF seeks to avoid significant adverse impacts on health and quality of life arising from noise from new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. Para 123 of the NPPF also recognises that development would often create some noise and this is to be expected.

Planning Considerations

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

- Noise and light pollution
- The impact on the amenity of neighbouring residents
- Highway safety with increased hours of use

Planning Assessment

Shopping Policy 3 relates to new development of shops, although the principle of the development is already long established and the supermarket constructed, the policy remains relevant however when changes to the original permission are sought via a variation of condition. Policy S3 requires that retail development does not adversely affect the amenities of neighbouring occupiers. This is reflected within a number of paragraphs within the NPPF whereby the health and quality of life should not be adversely affected by noise from new developments.

The revised hours of deliveries would reflect the already approved hours of the original application from 08:00 till 20:00 hours Monday to Saturday. This alleviates concerns raised by residents with regards to noise generated from delivery lorries late in the evening and early morning. The proposal does however now include deliveries on Sundays but this is restricted to the opening times of the store, 10:00 -17:00 hours and are considered acceptable operating in the middle hours of the day when background noise from vehicle and pedestrian activity is high.

The original amendment to vary opening and delivery hours was considered to be unreasonable and would have resulted in additional noise during the quieter periods of the evening in particular from lorries reversing within the site. The proposal also failed to fit with the context of the local area as a rural community and a highly residential environment. Concerns were expressed to the agents that the opening hours had to be more sympathetic to the context of the locality, the agents put forward revised opening hours of 07:00 – 22:00 hours Monday to Saturdays (including Bank Holidays) (2 hour extension to existing opening times) and 10:00 – 17:00 hours on Sundays (1 hour extension to existing opening times). The reduction in hours prompted the environmental health officer to retract their original concerns and respond with no objection.

The opening time of the store is the same as previously approved and operated (07:00hours), therefore there is not considered to be an adverse impact caused to amenity of local residents as a result of noise or light disturbance at this time. The issue of highway safety as a result of deliveries in the early morning when children are waiting for the school bus would be negligible as the current delivery and opening hours would be retained whereby there is the potential for deliveries to arrive at the same time as the school bus. No complaints have been received or accidents recorded as a result of the overlap of opening/delivery times and school pick-ups/drop offs, therefore the current

situation is unlikely to be altered by the change in operator of the store and the retention of the existing opening/delivery times in the morning are considered acceptable.

The closing time of the store at 22:00 hours would have the potential to cause increased disturbance to the amenity of neighbouring occupiers in terms of noise and light. However it must be noted that the reduced delivery times would be of benefit to the local residents. The level of noise generated by vehicles and pedestrians moving within the site is considered to be low and would have no greater impact than that of vehicles using Derby Road to access Melbourne. It must be noted that the existing convenience store (Spar) within the centre of Melbourne is open to 22:00 hours, there are also restaurants and public houses open to similar hours, which in themselves would result in increased movement of vehicles and pedestrians on the highway and has the potential to generate noise. The supermarket would operate within similar hours and provide an additional service to consumers within this locality. Extended hours are becoming more common to accommodate the change in working patterns and provide a flexible open service for consumers working shifts. The provision of comparable facilities within this rural community to those elsewhere would promote sustainability by reducing the need to travel to such facilities.

Issues of joyriders utilising the car park have occurred in the past when the car park has been left open, which occurs outside of the opening hours of the store. An open store creates an active frontage and provides an increased sense of security as the level of natural surveillance is maintained through the day. The issue of inappropriate use of the car park should not arise if the car park is locked outside normal opening hours.

Overall the proposed extended opening hours of the store are not considered to cause an increased level of disturbance in terms of noise that would be significant enough to warrant a reason for refusal. Therefore the proposed variation of condition 17 meets the requirements of Shopping Policy 3 and the aims of the NPPF as the proposed opening and delivery times would not have an adverse effect on the amenity of local residents within the community.

There is however potential for increased light spill from extended use of the car park lights into the street, therefore to ensure this is minimised a condition can be added to ensure all lights meet the Institute of Lighting Engineers guidance. This may result in collars being added to existing columns to focus the light and restrict light spill into the wider area.

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

Recommendation

GRANT permission subject to the following conditions:

1. The premises shall be open to customers no longer than between the hours of 07.00 hours and 22.00 hours Monday to Saturday and Bank Holidays, and 10.00 hours and 17.00 hours on Sundays.

Reason: In the interests of the amenities of local residents

2. Deliveries (with the exception of newspaper deliveries) to the premises shall be restricted to between 08.00 hours and 20.00 hours Monday to Saturday and Bank Holidays and between 10:00 hours and 17.00 hours on Sundays.

Reason: In the interests of the amenities of local residents.

3. A scheme of lighting of the supermarket building and associated car park shall be submitted to an approved in writing by the Local Planning Authority, the lighting scheme should be in accordance with the Institute of Lighting Engineers guidance and shall be completed in accordance with the approved details.

Reason: To safeguard the amenities of neighbouring residents.

Informatives:

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

Item 1.7

Reg. No. 9/2014/1052/FH

Applicant:
Mr G March
35 Chellaston Lane
Aston-on-Trent
Derby
DE72 2AX

Agent:
Mr Anthony Bradley
Building Design (Nottm) Limited
Broad Oak Cottages
2 Main Street
Strelley Village
Nottingham
NG8 6PD

Proposal: **CONSTRUCTION OF A TWO-STOREY SIDE EXTENSION AND A TWO-STOREY AND SINGLE STOREY REAR EXTENSION AT 35 CHELLASTON LANE ASTON ON TRENT DERBY**

Ward: **ASTON**

Valid Date: **06/11/2014**

Reason for committee determination

This application is brought before Committee at the request of Councillor Atkin as local concern has been expressed about a particular issue and the committee should debate the issues in this case that are very finely balanced. There are unusual site circumstances and the personal circumstances of the adjacent neighbour (No. 33) should also be considered by the Committee.

Site Description

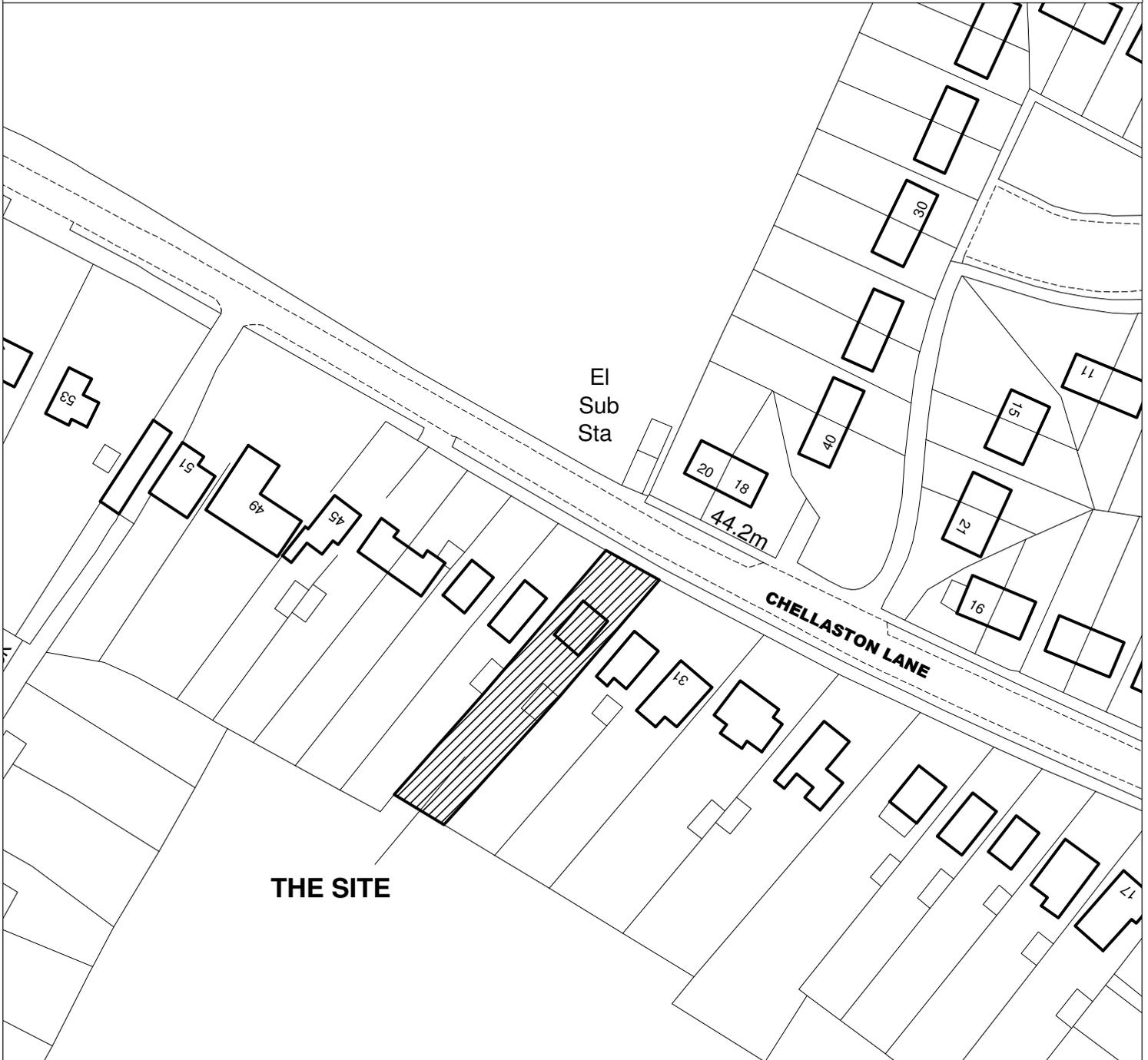
The application property is a 1930s 2-storey detached house which is part of a ribbon development along Chellaston Lane on the periphery of the village of Aston on Trent. The 2 properties either side of the application site are of the same architectural style and the 3 houses are staggered slightly behind one another from east to west.

Proposal

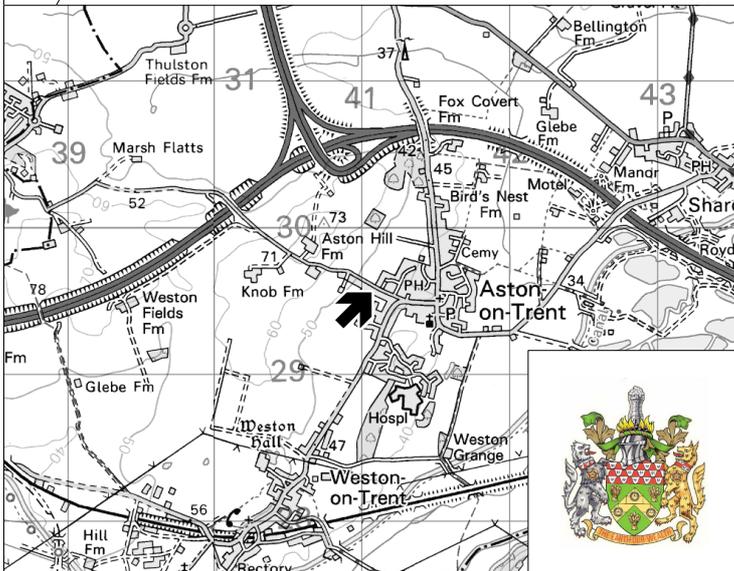
The proposal consists of a 2-storey extension to the south-east side of the property and a 2-storey rear gable extension with flanking single storey lean-to elements.

Applicants' supporting information

There is no supporting information as this is not a requirement of householder planning applications.



THE SITE



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Planning History

There is no planning history associated with the site.

Responses to Consultations

Aston on Trent Parish Council has concerns over the size of the proposed development. The rear extension is not an issue as there is sufficient land but the side extensions overhang the neighbouring property quite significantly. The development will block light from the neighbouring property and change the visual nature of the street creating a terracing effect along the street. The Parish Council fully supports the objection from the neighbour at 33 Chellaston Lane.

Responses to Publicity

Two neighbour objections have been received covering the following:

- a) The proposed roof line will over-hang the objector's property by approximately 460mm which is not acceptable. The integrity of the objector's boundary must be safeguarded.
- b) The objector's 80 year old boundary wall would have to be removed and then re-established which is not acceptable.
- c) Scaffolding would be essential and the objector's permission to erect it on their property would not be granted.
- d) The close proximity of the proposed new extensions could represent a fire hazard.
- e) Should the objector or any future occupier of the property wish to develop the site towards the boundary of the new extension, they would be prevented from doing so by the proposed overhang. This could be described as discrimination against the current owner and is totally unacceptable.
- f) It is not the wish of the objector to hinder any reasonable extension of No. 35 but there is ample room at the rear of the property for any such extension and this would alleviate the objector's fears.
- g) The objector lives alone and is elderly and has found this stressful and worries about how the alteration of what is currently a pleasant 1930s environment will be affected by the large and very close extension.
- h) No. 37 Chellaston Lane will be overshadowed and it will be darker from the landing and kitchen windows. The objector's vision is impaired and the lack of light will make life more difficult.
- i) The back extension is not in keeping with the 1930s house.

A further letter was received from the one of the objectors whereby the term 'over-hang' was amended to 'over-bearing' following advice from an informed source. In addition, it was pointed out that 4 principal windows, and consequently four principal rooms, would have their light values reduced to an unacceptable level.

Development Plan Policies

The relevant policies are:

Local Plan: Saved Housing Policy 13.

Emerging Local Plan: Policy BNE1

National Guidance

National Planning Policy Framework (NPPF) paragraphs 11-14 (presumption in favour of sustainable development), 57, 58 and 61 (requiring good design), 186 and 187 (positive decision-taking) and 196 and 197 (determining applications).

National Planning Practice Guidance (NPPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design).

Local Guidance

Supplementary Planning Guidance: Extending Your Home (SPG)

Planning Considerations

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

- The impact of the proposal on the house and the general character of the area; and
- The impact of the proposal on the amenities of the neighbouring properties.

Planning Assessment

The impact of the proposal on the house and general character of the area

The proposed 2-storey side extension and single storey store room under a lean-to roof are sympathetic to and in scale with the host property with the 2-storey element being set back from the principal elevation. The proposed rear extensions are more contemporary in nature than the property's 1930s style, however they are subordinate to the main house with the roof pitch of the 2-storey element matching that of the existing house. The proposed rear extensions add symmetry to this elevation and, not being publically visible, would have no impact on the general character of the area or the existing architectural character of the visible frontage.

The proposal is therefore considered to be acceptable in visual terms and has been judged to have no detrimental impact on the general character of the area in line with the requirements of Saved Housing Policy 13 of the Adopted Local Plan.

The impact of the proposal on the amenities of the neighbouring properties

The application property sits slightly above and behind the adjacent neighbour, 33 Chellaston Lane, and there is no physical front boundary between them. The proposed side extension has one ground floor circular window to a play room and no windows at first floor level and this elevation faces onto 4 windows (2 to each floor) of the side elevation of the neighbour's property which are classed as secondary windows and therefore not afforded the same level of protection as primary windows. The proposed 2-storey element of the rear extension is positioned such that it would not breach the 45° line drawn from any of the primary windows to the rear of No. 33.

The proposed extensions would have no impact on the neighbour to the west (No. 37) as this house sits behind the application property and the proposed extensions do not fall beyond the rear wall of this neighbour. The proposed elevations facing No. 37 are all blank.

The proposals are therefore considered to be in conformity with the requirements of the Council's SPG in that they would not overbear on any principle windows of either of the neighbouring properties.

Other issues raised through the consultation process

Although a street scene can be affected by closing the gap between houses to produce a 'terracing effect', in this case the effect is minimised by the proposed 2-storey side extension being set back from the principle elevation of the host property and the gap between No's 33 and 35 is still maintained. The potential terracing effect is further minimised by the fact that the houses along this street, which are a mix of single and two storey detached properties, are staggered behind one another as you travel westward along Chellaston Lane and have hipped roofs. Travelling in an eastward direction, the proposed 2-storey side extension would be hidden behind the original house thereby maintaining the current building line and the visual character of the street.

The boundary issue raised by the objector would be a civil matter between the applicant and the neighbour and does not amount to a material planning consideration that would affect the outcome of this application.

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.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner by quickly determining the application. As

such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item 1.8

Reg. No. 9/2014/1056/FM

Applicant:
Mr Gary Supple
20 Glebe Homes
Victoria Way
Pride Park
DE24 8AN

Agent:
Mr Ryan Johnson
Green 2K Design
First Floor
Thomas Henry House
1-5 Church Street
Ripley
Derbyshire
DE5 3BU

Proposal: **THE ERECTION OF TWO DWELLINGS ON LAND TO
THE REAR OF HILL VIEW CHAPEL LANE BARROW ON
TRENT DERBY**

Ward: **ASTON**

Valid Date: **31/10/2014**

Reason for committee determination

The application is reported to Committee at the request of Councillor Peter Watson because local concern has been expressed about a particular issue and unusual site circumstances should be considered by Committee.

Site Description

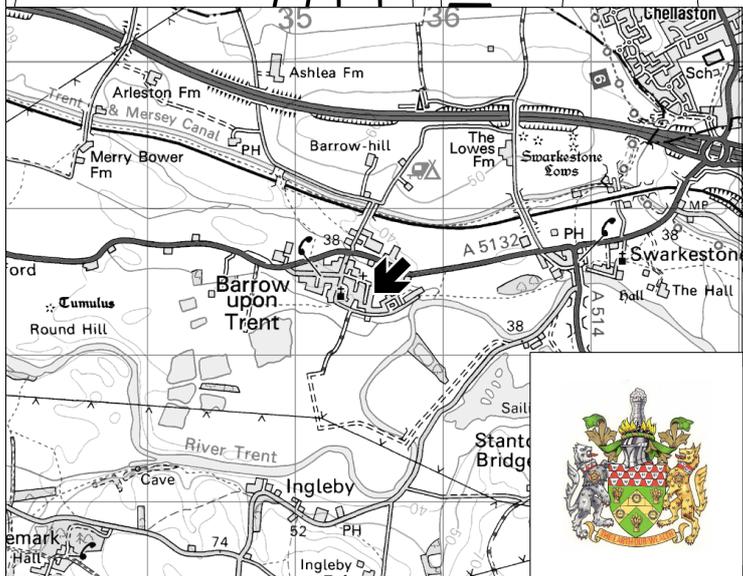
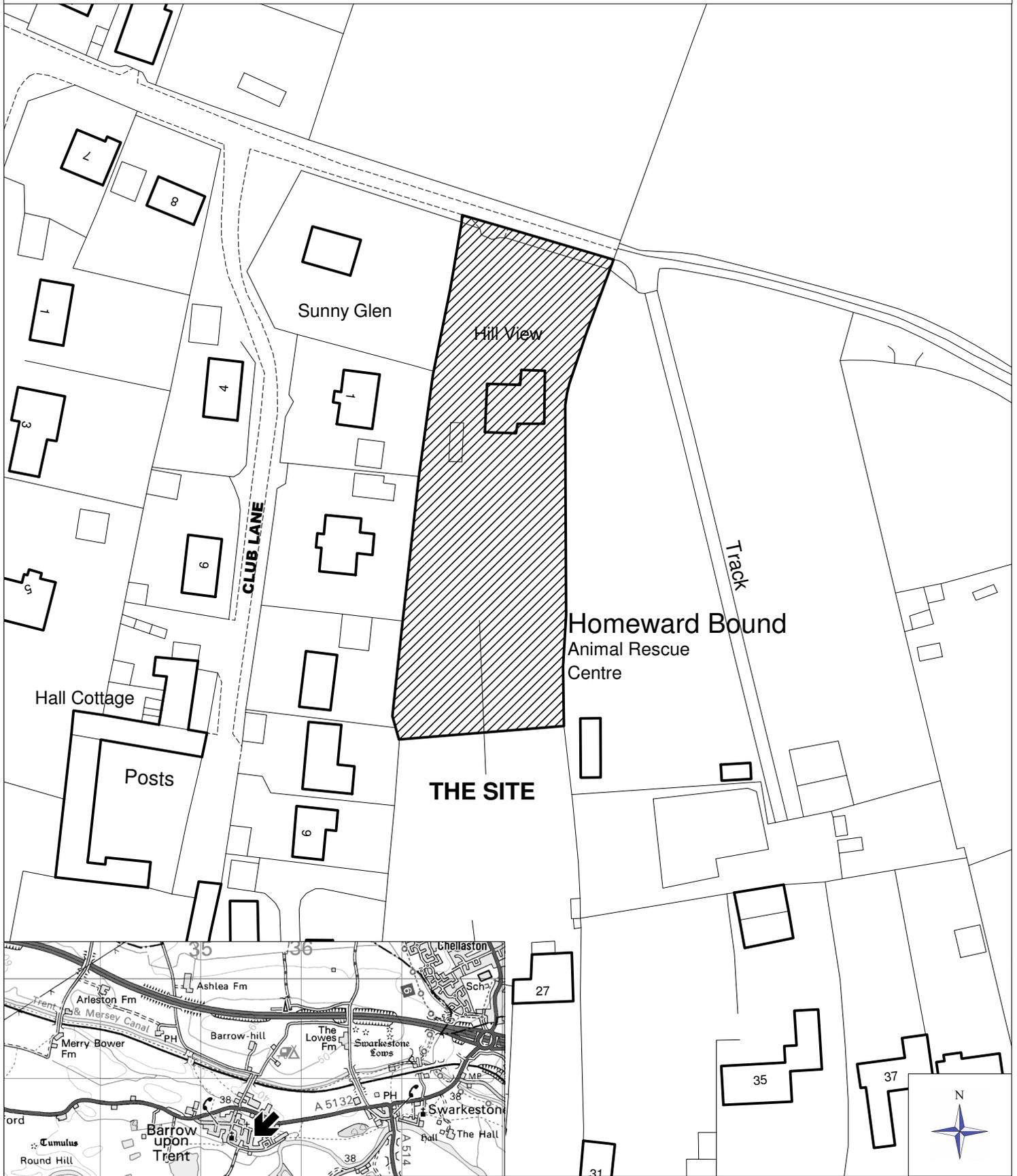
The site contains a bungalow with a large garden, located at the end of frontage development along Chapel Lane. It lies in the defined village confine and adjacent to the Barrow on Trent Conservation Area. The western boundary of the site is shared with Sunny Glen and Nos 1- 7 Club Lane. To the east is a field used as an animal sanctuary. Chapel Lane becomes unmade beyond the Club Lane junction.

The Environment Agency's Flood Risk Map shows the site split between Zones 2 & 3. The 1 in 100 year flood line is set at 39.13m above Ordnance Datum (AOD). Site levels in the vicinity of the proposed dwellings range from about 39.3m – 39.6m AOD.

Proposal

The application seeks permission for two detached houses with three floors of accommodation, the uppermost being contained within the roof. The finished floor levels would be set at 39.88 m above Ordnance Datum. The dwelling closest to existing houses in Club Lane would measure some 5.5m above existing ground levels to the

**9/2014/1056 - Rear of Hill View, Chapel Lane, Barrow on Trent, Derby
DE73 7HE**



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South Derbyshire District Council. LA 100019461. 2014

eaves and 9.8m above existing ground level to the ridge of the highest gable. Ridge heights to perpendicular wings would be 1.4 m lower, with a projection to the rear closest to Club Lane being a further 0.7 m lower. The houses would have 45° pitched roofs.

During the course of the application the proposal was amended by handing the front two-storey element (stepping it back from the Club Lane boundary by 3.95m) and removing a single storey side element (depth 2.15m).

The existing access to Chapel Lane would be modified, with a new access being formed to serve the existing bungalow.

The application is accompanied by a Flood Risk Assessment (FRA) that recommends finished floor levels at approximately 500mm above existing ground level (i.e. 39.88 AOD). This equates to a level 750mm above the 1 in 100 year flood level and 590mm above the 1 in 200 year flood level. The FRA acknowledges that in extreme flood conditions dry access along Club Lane would not be available and recommends a flood warning and evacuation plan.

A Phase 1 Habitat Survey and Great Crested Newt & Reptile Survey are also submitted.

Applicants' supporting information

The supporting statement includes the following points:

- The proposal has been amended, by handing the front two-storey element (steeping it back by 3.95m) and removing a single storey side element (depth 2.15m). As a result a significant reduction built form has been relocated away from the boundary of the site and consequently the proposal would not have an overbearing impact on neighbouring property.
- The closest distance from a rear ground floor principal window to 3 Club Lane would be 13.8 m, in excess of the 12m guideline in the adopted supplementary planning guidance (SPG).
- The SPG assumes little or no screening. In this case there is substantial mature screening along the boundary, under the applicant's control. The applicant would be pleased to discuss the long term maintenance of this hedge with neighbours.
- The dwellings are two-storey with guest rooms in the roof. The best practice term for such dwellings is 2.5 storey.
- Although SPG indicates adding 20% to the distance for a three-storey property. Therefore a reasonable approach for a 2.5 storey building would be to add 10%. The proposal exceeds this distance. Seeking further separation would not be reasonable.
- The proposed houses would have footprints of 140 sq m and 147 sq m. This compares with 5 Club Lane at around 154 sq m and, if a permitted extension were to be built, 157 sq m at 3 Club Lane. The size of the houses is thus not dissimilar to local examples.
- The extension to No 5 does not convey greater sensitivity in the terms of the SPG.
- The habitats surveys demonstrate that the site is not of high value and Section 11 of the NPPF is thus complied with.

- The proposal represents sustainable development. In granting permission no adverse impact would arise in relation to any matters of acknowledge importance.

Planning History

9/2014/0228 – Outline permission for three dwellings granted by Committee on 26th August 2014.

Responses to Consultations

The Highway Authority has no objection subject to conditions.

Environment Agency has no objection provided that evacuation measures are secured in the event of flooding of the road. Flood prevention conditions are also recommended.

Natural England recommends conditions to enhance biodiversity on the site.

Derbyshire Wildlife Trust notes that the current state of the site is such that it has no habitat value, but recommends conditions to enhance biodiversity on the site.

Severn Trent Water Ltd has no comment.

Responses to Publicity

The Parish Council objects for the following reasons:

- a) The village already has significant flooding problems and the development would increase risk and run off for the rest of the village.
- b) There would be overlooking and overshadowing to neighbours.
- c) The narrow unmade road is unsuitable and there is no footway along the road, which is popular with walkers.
- d) The development would be intense and not in keeping with the rural parish.

Two neighbours object as follows:

- a) Compared with the approved scheme the proposal is both significant and detrimental.
- b) The proposal is for three storey dwellings with floor levels some 600mm higher than neighbours. As such the minimum distance in the adopted supplementary planning guidance (SPG) should be increased by at least 20%. This would indicate a minimum distance of 15 m from neighbouring dwellings whereas there is only 13.1 m to 3 Club Lane and 12.77 m to 5 Club Lane.
- c) Not only is the development too close to neighbouring property the nearest proposed house is also large by any standards (17 m front to back). This would be a significant overbearing presence, dominating the outlook from 3 Club Lane.
- d) No 5 Club Lane has been extended along the side boundary with No 3. As a consequence No 3 relies on a single rear aspect which would be taken up by a long and very high wall of the proposed dwelling.
- e) An appeal in respect of an extension falling only slightly below SPG distance was recently dismissed.

- f) The development would be out of character with the conservation area because of its bulk and design.
- g) There would be loss of light and privacy to neighbours' dwellings and gardens.
- h) The development would increase flood risk from hard surfaces, loss of vegetation and outfall from septic tanks. Increased waterlogging has already been noticed following site clearance. There is a ditch along the western boundary of the site which would become inundated
- i) There is no available sewer and septic tanks could cause drainage problems.
- j) Primary and secondary schools are full.
- k) The site would be cramped with inadequate amenity space.
- l) Chapel Lane would be damaged by vehicles.
- m) Reference to the permitted extension at No 3 Club Lane is not relevant to the impact of the development.
- n) The amended plan introduces additional windows to the side elevation which would introduce overlooking at close quarters.

One letter of support has been received on the basis that the buildings have a traditional locally inspired appearance.

Development Plan Policies

The relevant policies are:

South Derbyshire Local Plan Saved Housing Policies 5 & 11 (and its associated supplementary planning guidance), Saved Environment Policies 9, 11 & 12, Transport Policies 6 & 7.

Emerging Local Plan Policies

Pre-Submission Local Plan 2014: Policy S1 (Sustainable Growth Strategy), Policy S2 (Presumption in Favour of Sustainable Development), Policy S4 (Housing Strategy) Policy S6 (Sustainable Access), Policy H1 (Settlement Hierarchy), Policy BNE1 (Design Excellence) Policy BNE2 (Heritage Assets), BNE3 (Ecology) Policy INF2 (Sustainable Transport), SD2 (flood Risk).

National Guidance

National Planning Policy Framework (NPPF), in particular:

- Paras 6-10 (Achieving sustainable development)
- Paras 11-14 (The presumption in favour of sustainable development)
- Para 17 (Core principles)
- Chapter 6 (Delivering a wide choice of quality homes)
- Chapter 7 (Requiring good design)
- Chapter 10 (Flooding)
- Chapter 11 (Natural environment)
- Chapter 12 (Historic Environments)
- Paras 186 & 187 (Decision-taking)
- Para 196 & 197 (Determining applications)
- Paras 203-206 (Planning conditions and obligations)

NPPG ID26 (Design), 21a (Conditions), 23b (Obligations), 18a (Historic environment) ID7 (Flood Risk) ID8 (Natural environment).

Planning Considerations

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

- The principle.
- Flood risk.
- Impact on the character and setting of the conservation area.
- Highway safety and transport.
- Residential amenity.
- Biodiversity

Planning Assessment

The principle

Paragraph 14 of the National Planning Policy Framework (NPPF) states *“at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.”* The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in this NPPF indicate development should be restricted.”

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

In terms of the current Local Plan, Saved Housing Policy 5 defines a village confine within which the site lies. As such residential development is supported by the development plan. The emerging Local Plan Policy H1 identifies Barrow on Trent as a ‘Rural Village’ and favours development of limited infill and conversion of existing buildings and local scale affordable, and cross subsidy exception sites of up to 12 on appropriate sites and according to individual settlement circumstance. Although the emerging policy does not favour the particular form of development proposed, the plan does not yet carry a great deal of weight. In view of the limited scale of the proposed development, Saved Housing Policy 5 remains consistent with the NPPF, which acknowledges that where there are groups of smaller settlements, development in one village may support services in villages nearby. As such the proposal represents sustainable development that is acceptable in principle.

Furthermore there is an extant planning permission 9/2014/0228. This remains a substantial material consideration given that there has been no relevant change in national or local policy in the interim.

Flood risk

The submitted flood risk demonstrates that the dwellings would not be at unacceptable risk in extreme flood events. However should Chapel Lane flood, dry access and egress would not be possible. The extant permission addressed this issue by proposing a Flood Warning and Evacuation Plan. The County Council's Emergency Planning Manager had confirmed that the proposed measures would be suitable and sufficient for this location. This could be secured by condition as with the extant permission. On this basis the Environment Agency does not object to the proposal subject to conditional safeguards as recommended below. Concern has also been expressed about additional hard surfacing and therefore run-off exacerbating existing flooding issues. The FRA recommends a SUDs solution for the site that would ensure run-off is restricted to greenfield flows (as existing). Such a scheme would be secured by condition before any work commences.

Impact on the character and setting of the conservation area

The proposal lies adjacent to the conservation area. Although the dwellings would be larger than those in the immediate locality, their form would not be alien and they would be set well back from the public highway. As such they would not appear unduly dominant or out of character in the public realm. There is no proposal or highway requirement to make alterations to Chapel Lane. Subject to appropriate materials the proposed dwellings would preserve the setting of the conservation area, in accordance with Saved Environment Policy 12 and Chapter 12 of the NPPF and its associated guidance.

Highway safety and transport

On the advice of the Highway Authority there would be no adverse safety issues arising. The garaging and parking proposed is appropriate to the scale and nature of the development. As such the proposal is in accord with Local Plan Saved Transport Policies 6 & 7, which remain consistent with the NPPF.

Residential amenity

Given that the principle of development is established through the outline permission 9/2014/0228, a main issue for consideration in this case is the impact of the development on the living conditions of adjoining neighbours. The supplementary planning guidance suggests a minimum distance of 12 m from a main habitable room window of an existing dwelling to a proposed 'blank' 2 storey elevation. The guidelines assume a relatively level topography and little or no screening. Where this is not the case, the minimum distances may be increased/decreased as appropriate. For dwellings of three or more storeys, greater distances, of the order of 20% more, will be required, based on the particular merits of the proposal. Because the design of the dwellings incorporates habitable rooms the dwellings sit between the 2 and 3 storey definitions. The applicant's description of them as 2.5 storey is reasonable, although consideration needs to be given also to the higher floor levels (approx. 600 mm higher than 3 Club Lane), which are dictated by the need to protect the new houses from risk of flood.

No 5 Club Lane has been extended to two storeys such that its rear gable is close to the site boundary. However the main aspect of that extension is to the south, with French doors in the southern elevation, from where there would be no views of the new houses. The windows in the gable facing the site are thus more akin to secondary aspects. The

distance from the nearest of those windows to the proposed dwelling is about 12.8m. However this part of the new dwelling is the lowest of the projecting elements and in terms of scale is consistent with the normal separation distance of 12m, even if main aspects were being considered. Because No 5 lies predominantly south of the nearest proposed dwelling there would be little impact on habitable rooms in terms of either overbearing effect or loss of sunlight. The relevant tests for overlooking in the SPG are met.

The main impact of the development in terms of residential amenity would be upon No 3 Club Lane. The nearest proposed dwelling (Plot 1) comprises four distinct two-storey elements, the central (highest) one being a 2.5 storey gable with a span of 8m. This would be offset such that the ridge would correspond roughly to a line projected along the south wall of No 3. Measuring from the centre of the nearest main window of No 3, to the corner of the main element of the proposed new house, there would be a distance of 13.77m. The lower (by 1.4m) front projection would be 16.78m away from the same window in No 3. The nearest rear projection (2.1m lower than the main element) would be 18.4m away from the nearest window in No 3 Club Lane. Views of the other rear element would be largely hidden from view from the ground floor of No 3.

There would be an impact on direct morning sunlight to No 3, particularly in the darker months, when it would be late morning before the sun would be seen from the ground floor windows. However this is not an uncommon effect in many residential areas, and while this would be a change from the existing situation it is not one that the SPG can realistically secure in perpetuity.

Potential views from side windows to Plot 1 could be precluded by obscure glazing and boundary treatment conditions as appropriate.

On balance, and as a matter of judgement, having regard to the position of the new dwelling (Plot 1) and the way its mass is broken down, the impact on the occupiers of No 3 would not be demonstrably harmful. As such the proposal would accord with Saved Housing Policy 11. The development would satisfy the criteria of the policy to provide reasonable living conditions for the new occupiers.

Biodiversity

Paragraph 118 of the NPPF seeks to conserve and enhance biodiversity. The recommended conditions of Natural England and Derbyshire Wildlife Trust would secure compliance, also in accord with Local Plan Saved Environment Policies 9 & 11.

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. 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. The scheme shall include proposals to retain and plant new native hedgerows

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

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

Reason: In the interests of the appearance of the area and to provide biodiversity enhancement.

4. Finished ground floor levels shall be set at 39.88 metres above Ordnance Datum (mAOD) to accord with the recommendations of the approved Flood Risk Assessment, Version 2.0 by Julia Williams dated July 2014 and as shown on the submitted drawings.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

6. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

The utilisation of holding sustainable drainage techniques;

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

Responsibility for the future maintenance of drainage features.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.

7. The Flood Warning & Evacuation Plan (appendix F to the submitted Flood Risk Assessment Version 2.0) shall be implemented on first occupation of the dwelling and shall be retained in accordance with that document thereafter.

Reason: To enable occupants to vacate the site before safe access is precluded by flood.

8. Prior to the first occupation of the development, the access to the site shall be modified in accordance with Drawing No 961 004 Rev F and shall be provided with 2m x 12m visibility sightlines in each direction, the area forward of which shall be cleared and maintained thereafter clear of any obstruction exceeding 1m (600mm in the case of vegetation) in height relative to road level.

Reason: In the interests of highway safety.

9. Before any other operations are commenced a new access shall be created to Chapel Lane for the existing dwelling in accordance with application drawing No. 961-004 Rev F, laid out, constructed and provided with 2m x 12 m visibility splays in each direction, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

11. The details required pursuant to Condition 2 shall include a bin store, situated in close proximity to the highway. The bin store shall be provided prior to the first occupation the development and shall be retained thereafter free from any impediment to its designated use.

Reason: To avoid the need to place bins in the highway on collection days in the interests of highway safety.

12. Prior to the first occupation of the development, space shall be provided within the site curtilage for parking and turning of two vehicles for the existing dwelling. Each parking space shall measure at least 2.4m x 4.8m. The parking and turning areas for the new dwellings shall be provided in accordance with Drawing No 961 004 Rev F before the development is first occupied and shall be retained as such thereafter.

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

13. 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.

14. Prior to the commencement of development, details and a timetable for implementation of how the ecological value of the site will be enhanced, through for example the provision of bird nesting and bat roosting features, shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented in full and shall be retained as such thereafter

Reason: To enable any unidentified ecological interest to be identified and protected proportionately.

15. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 961 001 Rev B, 002 Rev B & 004 Rev F.

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

16. 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. In particular the details shall demonstrate how potential overlooking from the ground floor windows in the west elevation to Plot 1 to the ground floor windows to 3 Club Lane will be precluded. 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.

17. The window serving the stairway in the west elevation to Plot 1 shall be permanently glazed in obscure glass.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

When seeking to discharge the above planning conditions, please note that the Environment Agency does not consider the use of oversized pipes or box culverts to be sustainable drainage. Should infiltration not be feasible at the site, alternative above ground sustainable drainage should be used.

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

Item 1.9

Reg. No. 9/2014/1070/TP

Applicant:
Mr Martin P Buckley
SDDC - Cultural Services
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
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DE11 0AH

Proposal: THE FELLING OF AN ASH TREE COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER SED1966 AT ST WILFRID'S CHURCH BARROW ON TRENT DERBY

Ward: ASTON

Valid Date: 05/11/2014

Reason for committee determination

The Council is the applicant; the tree is protected by a tree preservation order on Council maintained land.

Site Description

This ash tree sits within the grounds of St Wilfrid's Church, Barrow on Trent and overhangs the house and driveway of No. 14 Hall Park. It and a number of other mature trees in the locality have been protected, by virtue of Tree Preservation Order SED1966, for almost 50 years.

Proposal

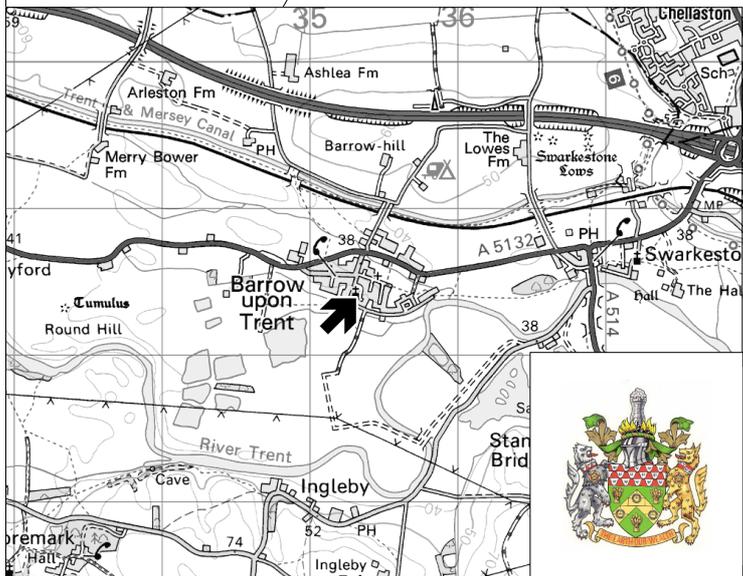
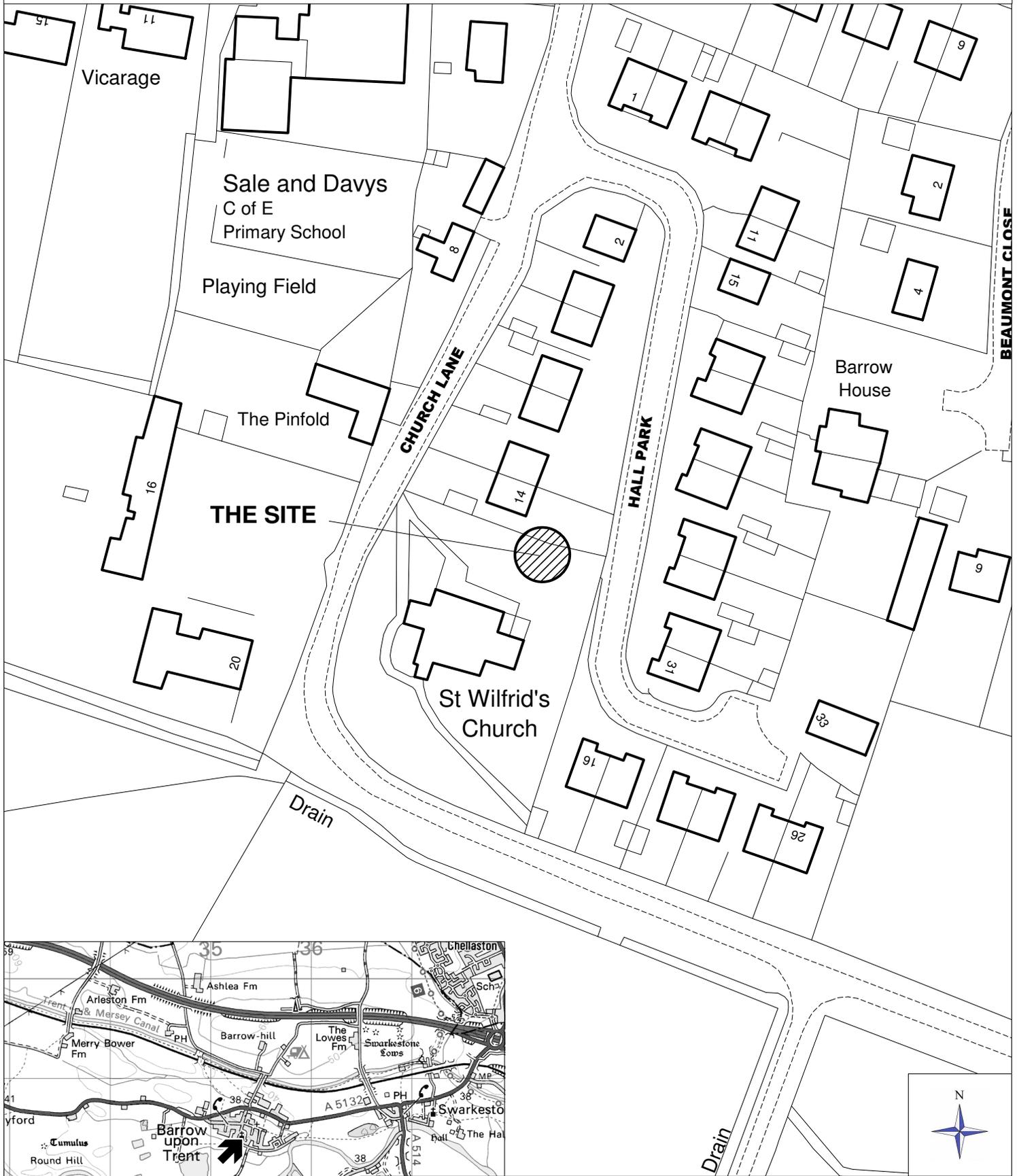
The proposal is to fell the tree.

Applicants' supporting information

There is evidence of a *Inonotus Hippiidus* fruiting body growing on its trunk, just below its two large co-dominant scaffolds. Additionally, there is black staining found on the main and upper stems, between the 4 and 6m point, which would indicate historic decay within that immediate area.

Planning History

9/2014/1070 - St Wilfreds Church, Church Lane, Barrow on Trent, Derby
DE73 7HB



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9/2012/0126 – this and the adjacent ash tree were pruned following consent. It was noted at that time that the tree was in decline and by reducing it, it was hoped that that this would lessen its likelihood of failure.

Responses to Consultations

None.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:
Local Plan: Environmental Policy 9

National Guidance

National Planning Policy Framework.

Planning Considerations

The main issue central to the determination of this application is whether the tree's felling is warranted given the protective designation.

Planning Assessment

This fine looking tree is a part of a group Order (SED1966) and its proposed felling would undoubtedly be seen as a loss to the area. It is however deemed necessary, given the recent indicators of long term decay and the trees public situation. Attempts have been made to lessen the threat to public safety, the reduction carried out in 2012 for example. However, decay continues to weaken the tree; and there is further threat of branch snap (as happened back 2012) or even major limb failure with little notice.

It's felling (and by this removing the 'spore' producing fruiting body) would also reduce the threat to the adjacent ash, by removing the potential for cross infection.

This tree in a much reduced form would not be worthy of its protected status and a replacement (a heavy standard oak is planned) would present a better long term option.

Therefore, in the interests of public safety the tree should be felled.

Recommendation

GRANT permission.