

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications SECTION 2: Planning Appeals

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 submissions to the Secretary of State as Nationally Significant Infrastructure Projects.

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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. 9/2013/0735/IPC

Applicant:
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Agent:
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Proposal: BELOW GROUND GAS PIPELINE APPROX 27KM IN LENGTH, WITH AN ABOVE GROUND INSTALLATION (AGI) AT YOXALL AND TEMPORARY COMPOUNDS OFF CARRIERS LANE EGGINTON AND AT THE FORMER WILLINGTON POWER STATION; TO SUPPLY NATURAL GAS TO A NEW POWER STATION TO BE CONSTRUCTED AT WILLINGTON. LAND BETWEEN EGGINTON AND WILLINGTON DERBY

Ward: ETWALL/WILLINGTON & FINDERN

Valid Date: 06/09/2013

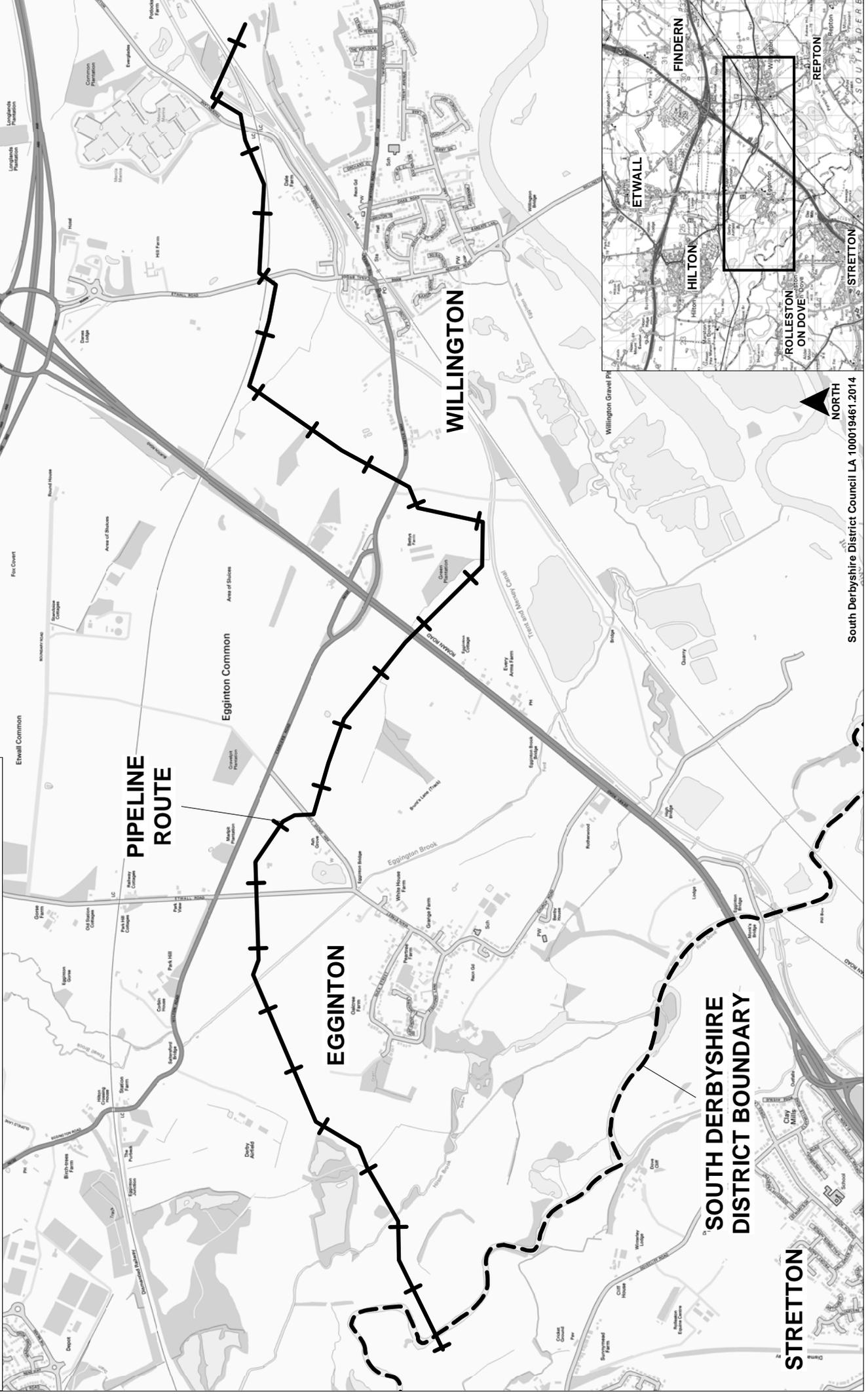
Reason for committee determination

This item is brought to Committee at the discretion of the Planning Services Manager as this Nationally Significant Infrastructure Project (NSIP) application is made to the Secretary of State under Section 37 of the Planning Act 2008 ("the 2008 Act") and this Council, amongst other bodies, is a consultee to that procedure.

Site Description

The site is linear in nature, stretching over 27km and underground in its entirety except for an above ground installation (AGI) in South Staffordshire and a block valve at Willington. The site commences with the block valve and temporary works compound at the existing Willington Power Station before heading north-west under the Derby to Burton railway line and the Trent and Mersey Canal. It will cross underneath Findern Lane between the Marina and level crossing, and continue to the north side of the Derby to Stoke railway line. The pipeline will then pass under the Etwall Road level crossing north of Willington and continue west before turning south a few hundred metres beyond. This southerly route will pass under the Castle Way (A5132) before turning towards the A38.

**9/2013/0735 - Land between Eggington (DE65 6GU)
and Willington (DE65 6DW), Derby**



After crossing under the A38, the route will continue to the south side of Carriers Road, north of Egginton, crossing Ash Grove Lane. Here it will enter a temporary works compound bounded by Carriers Road and Etwall Road (“the Carriers Road compound”). After passing under Etwall Road it will continue south-west under the Egginton Brook and around the north and west of Egginton. After passing under the Hilton Brook and River Dove into East Staffordshire, its route continues around Rolleston-on-Dove, under the A511 and south of Tutbury before passing south-west through the Needwood Forest towards Yoxall just north of the River Trent. Here it will terminate at the Yoxall AGI.

Proposal

The application seeks approval of a draft Development Consent Order (DCO) for a high pressure gas pipeline. If the Examining Authority (ExA) grants permission and the DCO is enacted, there would be planning permission in place for the development, subject to prior approval of conditions with the relevant authorities. Members will recall that consent was granted under Section 36 of the Electricity Act for the erection of a new combined and open cycle gas turbine power station at the existing Willington site in March 2011 (“the power station”). The 2008 Act replaces the provisions of the Electricity Act in relation to consents for such projects in England, and consequently this element of the overall proposal has been subject to new pre-consultation procedures and in the pipeline since early 2010. Due to the cross-boundary nature of the application, the remainder of the report only concerns itself with that which is relevant to South Derbyshire.

The works would include a mix of traditional “open cut”, providing the majority of the pipeline, and micro-tunnels, shafts and/or horizontal drilling used where it is necessary to traverse features such as roads, railways and water bodies. Whilst the proposed pipeline is only some 800mm in diameter and buried at least 1.1 metres below the surface, the exact route is subject to “limits of deviation” – generally some 30 metres either side of this anticipated route, with an average of an additional 20 metres either side for the works limits (i.e. land required temporarily to allow for construction). The DCO will apply to a corridor some 300 metres in width on average, with this narrowing or widening where secondary impacts arise which require mitigation or the Order need apply to land beyond because of compulsory purchase implications or linked effects.

The Carriers Road compound will be used to store and distribute pipeline sections for installation along the route. It would also provide for storage of plant and machinery, fabrication areas, wheel washing, temporary lighting, and administration and welfare facilities for employees. This element of the proposal is temporary in nature and land will be restored after the construction phase. The block valve, even though already benefitting from consent as part of the power station, is included in this application as it is integral to the construction and operation of the pipeline. The phasing of construction works may require the pipeline to be fully constructed and operational prior to the power station being completed such that it needs to be authorised under the DCO to allow for testing and operation. A further works compound will exist at the power station site. Aside from minor infrastructure above ground within the confines of the existing power station, the only other above ground effects following completion of the pipeline will be markers – either low to the ground fire hydrant style markers, or white and red “flight markers” every 500 metres or so in line with hedgerows or road boundaries.

Applicants’ supporting information

The application documents comprise a suite of technical assessments and reports as well as appendices of figures and plans/drawings. The application, due to its significance and the criteria set out in the Environmental Impact Assessment (EIA) Regulations 2011 is accompanied by an Environmental Statement (ES). Whilst it is not considered practical to detail the content of all of these reports, it is prudent to summarise certain elements:

- A Statement as to why the DCO is necessary, confirming that the scale and nature of the project requires an application to the Secretary of State under Section 37 of the 2008 Act;
- A Statement of Reasons which outlines the need for energy production and associated policy support, pre-application consideration of alternative routes and connection points to the national grid avoiding major areas of population and environmental significance whilst keeping the length of the pipeline to a minimum, and justification for seeking compulsory acquisition powers;
- A Consultation Report, outlining the Stage 1 and Stage 2 consultations undertaken, those involved, the responses received and what actions were taken to address those comments or issues raised.
- A funding statement, confirming the applicant is an existing energy generator running 10 power stations throughout the country and will be able fund the construction of this proposal and the power station, as well as cover compulsory acquisition costs. There is no intention to seek funding from a third party.
- The Environmental Statement including:
 - Construction activities – the process for works across agricultural land including topsoil stripping, fencing, hedgerow removal, pipeline distribution and installation, pressure testing, and land reinstatement and restoration; the process for crossing roads, rivers, canals, railways and under or over ground utilities; intentions for temporary construction compounds and AGI construction; and the proposals for handling contamination and waste;
 - Pipeline Operations and end of life – setting out the intentions for routine operation, maintenance and inspections, repairs and diversions, and decommissioning and abandonment.
 - Geology and soil resources – looking at solid and superficial geology, soils, minerals, historic landfill sites, and assessing the potential impacts on these and required mitigation during construction, operation and decommissioning;
 - Hydrology, hydrogeology and flood risk assessment (FRA) – looking at existing water bodies and corridors and their present characteristics and flood extents, before considering the effects of the pipeline on these characteristics and flood extents during construction, operation and decommissioning;
 - Ecology – this summarises the survey work undertaken on hedgerows, watercourses and overall habitat affected by the pipeline, with particular attention to protected species such as badgers, breeding birds, great crested newts and white-clawed crayfish. It looks at the significance of identified sites and evaluates the impacts arising and proposes mitigation measures during construction, operation and decommissioning;

- Landscape and visual assessment – this considers the baseline landscape character and visual aspects before assessing the immediate impacts and then short and long term impacts arising from the construction of the pipeline, noting the potential implications of the limits of deviation;
- Noise and vibration – this considers the baseline noise environment before assessing the noise and vibration impacts arising from general construction works (including horizontal drilling), the operation of the Carriers Road compound, and associated traffic noise on public highways, recommending mitigation and conditions where appropriate;
- Transport – this provides the basis for the provision of a Transport Statement (TS) which provides a strategy framed around minimising disturbance by identifying suitable delivery routes and ensuring road safety where accesses are proposed. The TS also outlines the intention to traverse roads by non open cut methods;
- Cultural heritage – this focuses on designated and non-designated assets and archaeological interest along the route, assessing the relevant impacts and proposing mitigation during construction, operation and decommissioning;
- Land use and amenity – relating to the use of land for leisure and recreation, looking at the local centres and facilities (e.g. nature reserves, public rights of way, sports grounds, private gardens, etc) which might be affected by the pipeline during construction, operation and decommissioning;
- Other environmental impacts – this considers forestry, air quality, socio-economics, waste, climate change, animal health, artificial lighting and explosives;

Alongside the above, there is an extensive range of detailed works plans, indicative cross sections and detail of matters such as pipeline markers, etc. The DCO itself also forms an integral part to the submission, and this is referred to in the assessment below.

The Council has also signed a Statement of Common Ground (SoCG) agreeing certain matters with the applicant to assist the ExA in focussing on those impacts which the Council considers are of significance.

Planning History

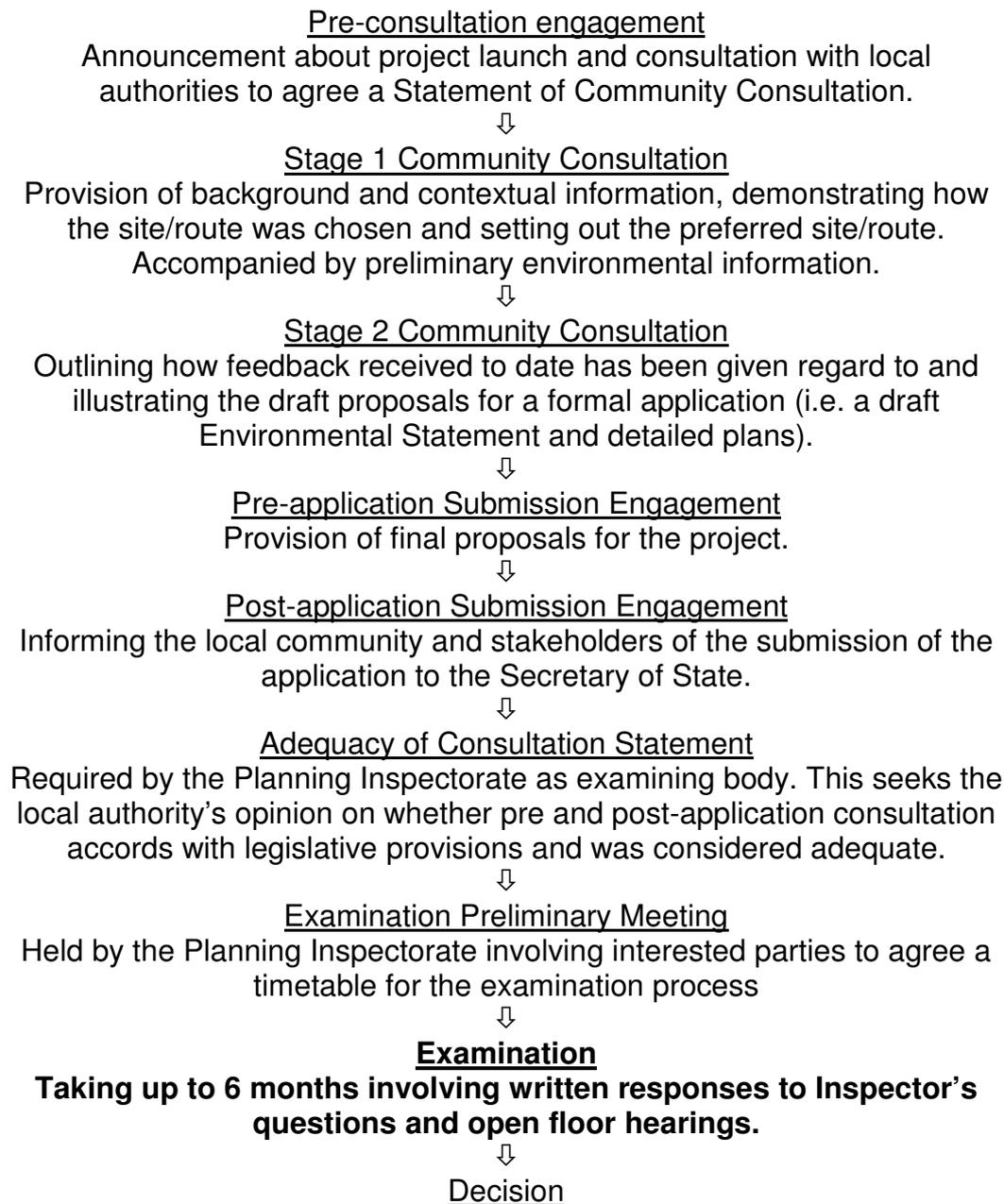
9/2012/0608: Stage 2 consultation for proposed gas pipeline – No objection subject to conditions

9/2010/0676: Stage 1 consultation for proposed gas pipeline – No objection subject to conditions

9/2009/1067: Consultation on application for consent to construct and operate a combined cycle gas turbine and open cycle gas turbine power station on the site of Willington Power Station (Willington 'C') – No objection subject to conditions, and granted consent by the Secretary of State in March 2011.

Procedure

The pre-application and examination procedures for a NSIP follow strict protocol and timetables requiring appropriate involvement of relevant stakeholders and interested parties:



Responses to Consultations

A considerable number of public bodies and organisations have been consulted directly by the applicant as required under Section 42 of the 2008 Act. Those organisations include the Health and Safety Executive, Environment Agency (EA), Natural England, English Heritage, Network Rail, the Canal & River Trust, the Highways Agency, the County Highway Authority (including Footpaths), Derbyshire Wildlife Trust, and will respond directly to the ExA.

Consultee responses to this Authority are summarised below.

- The Environmental Protection Officer has no objection subject to the mitigation measures previously discussed in pre-application consultation and identified in the ES.
- The Contaminated Land Officer has no objection subject to appropriate conditions for the control and mitigation of any contamination found.
- The Development Control Archaeologist considers the proposed phased approach to archaeological evaluation and mitigation is satisfactory. This would comprise a geophysical survey of the pipeline route, with evaluation trenching to advise on significance, and then an appropriate mitigation process (either advance excavation or in-scheme strip-and-record depending on the importance and extent of remains), with provision for post-excavation work, reporting and archiving of results. It is considered the condition in part 14 of the DCO is appropriate.

Responses to Publicity

The applicant is under a duty to publicise the application and involve the community in accordance with Sections 47 and 48 of the 2008 Act. The consultation report outlines the parties targeted and the times at which this was carried out. Stage 1 consultation began in summer 2010 and was followed by Stage 2 in summer 2012. The consultation exercises included press notices and consultation events at locations along the route, including the Willington Sports & Social Club and Village Hall and St Wilfrid's Church in Egginton. The relevant Parish Councils were also invited to be involved.

At Stage 1 responses generally focussed on the choice of route and proximity to their property, the safety of a pipeline, the impact of construction on roads, footpaths and hedgerows, and routing of construction traffic (specifically to avoid the centre of Willington). At Stage 2 responses focussed on what measures were being taken to ensure flood risk did not increase during works and how temporary speed limits at the Carriers Road compound could be enforced.

Councillor Lemmon has specifically responded to this application, providing support to the proposal as in-depth consultations have already taken place.

Development Plan and Emerging Policies

The relevant policies are:

- Local Plan: Transport Policy 6 (T6), Employment Policy 10 (E10), and Environment Policies 1, 9, 11, 12 and 14 (EV1, EV9, EV11, EV12 and EV14).
- The emerging Local Plan (Part 1) ("the emerging Plan"): Sustainable Development Policies 3, 4, 6 and 8 (SD3, SD4, SD6 and SD8), and Built and Natural Landscape Policies 2, 3 and 4 (BNL2, BNL3 and BNL4).

National Guidance

- The Overarching National Policy Statement for Energy (EN-1)
- Gas Supply Infrastructure & Gas and Oil Pipelines (EN-4)

- National Planning Policy Framework (NPPF) – paragraphs 6, 7, 8, 14, 17, 19, 32, 34, 75, 93, 95, 98, 99, 103, 109, 112, 118, 120, 121, 123, 129, 131, 132, 134, 139, 144, 178, 186, 187, 196, 197, 215 and 216
- Planning Inspectorate Advice Note 1: Local Impact Reports

Local Impact Report (LIR)

A LIR is defined by Section 60(3) of the 2008 Act as *“a report in writing giving details of the likely impact of the proposed development on the authority’s area (or any part of that area)”*, with the overall purpose to inform the examining authority (the Planning Inspectorate on behalf of the Secretary of State in this case) of the local authority’s view on relevant matters. Indeed Advice Note 1 advocated local authorities *“should draw on existing local knowledge and experience... [such as] local evidence of flooding, local social or economic issues or local knowledge of travel patterns to community facilities. The report should consist of a statement of positive, neutral and negative local impacts, but it does not need to contain a balancing exercise between positives and negatives...”*

The content of this report therefore focuses on the impacts arising and whether those impacts are deemed to be immaterial/negligible, acceptable, appropriately addressed by way of conditions in the draft DCO, or unacceptable and to what degree. Further consideration is given to how the proposal fares against policy. There is no “balancing” of the proposal against all of the aforementioned policies to reach a recommendation of objection or no objection, resulting instead in the recommendation set out below.

Planning Assessment

The ES provides a reasonable identification of planning related impacts arising from this NSIP. The assessment is thus framed on the following:

- Geological, soil and contamination impacts;
- Flood risk and hydrological impacts;
- Ecological impacts;
- Landscape and visual impacts;
- Noise and vibration impacts;
- Highway and rail safety impacts;
- Heritage impacts;
- Land use and amenity impacts (including lighting);
- Other environmental impacts (air quality, waste, animal health, socio-economics and climate change); and
- Decommissioning and abandonment impacts;

Geological, soil and contamination impacts

The routing of the pipeline and it’s relatively shallow depth is not envisaged to conflict with solid geological formations such that geological impacts are confined to superficial deposits, such as fluvial deposits arising from the Trent valley. The open cut nature of the project, with topsoil to be stored in bunds to the side of the pipe corridor, subsoil to be excavated to provide for the pipe trench, and restoration after work is complete results in a neutral effect. Whilst there would be some temporary loss of versatile agricultural land, and permanent loss of some sub-soil off site, this land is not considered to be the most versatile agricultural land and it would not be permanently sterilised.

As to contamination risks, the pipeline falls within influencing distance of former landfills but does not pass directly through such features. The works are therefore only likely to facilitate gas migration at most, and even then the risks are minimal given the end use. The main focus is on works to provide the block valve and the heightened potential for contaminants arising from the former power station to be released into the environment, such as nearby water bodies. Here there is potential for negative impacts but the Contaminated Land Officer has considered the reporting work undertaken so far and considers the mitigation to be appropriately secured by way of condition in the DCO. As such there is no objection and the impact is likely to be neutral if not marginally positive given contaminated ground may be “cleaned”.

Flood risk and hydrological impacts

During the course of works soil will be temporarily placed in bunds alongside the route of the pipeline, potentially for up to 8 months. As the pipeline route will intersect the River Dove, Egginton Brook and Hilton Brook at 90 degrees to the flow, these temporary obstructions have potential to impede the free flow of flood waters and exacerbate the risk to life and property during flood events. In order to address this, a greater number of breaks in the bunds will be provided so to facilitate a more permeable barrier, and horizontal drilling will be implemented for some 300 metres under the River Dove in any case. In addition an 8 metre stand-off to the top of all other watercourse banks will be implemented. The modelling indicates an increase in flood waters upstream of the bunds no further than Marston-on-Dove, although not significantly greater than standard 1 in 20 and 1 in 100 year flood events. No additional residential or business property is affected as a consequence, and those already susceptible are not materially worse off. The impact here is therefore one which is ‘minor adverse’, but given the temporary nature of the works and the probability of a severe flood event which coincides with the works, the impact is considered acceptable.

Notwithstanding this, the applicants consider there is a residual increased risk to properties on Fishpond Lane, Egginton. At the time of preparing the FRA, a temporary flood protection solution was proposed through condition under the DCO if the Egginton Flood Alleviation Scheme was still to be constructed. However the EA has recently completed the works (save for landscaping) such that appropriate protection now exists. As such the impact is considered to be acceptable.

Vehicle crossings will be made across the aforementioned water courses in the manner of box culverts, with the exception of the River Dove where a Bailey bridge will be deployed. The FRA indicates that the Environment Agency raises no objection to these matters and conditions in the DCO allow for appropriate control. Restoration of land drainage is also appropriately controlled in the same manner.

Further attention is given to records of surface water flooding along the route. These are generally in conjunction with the aforementioned watercourses or static water bodies, such that the impact or works in such areas is likely to be neutral. Surface water flooding elsewhere along the route is not to such a degree or so regular to raise significant concern as to likely impacts, with any such flooding which does arise adverse to the construction works as opposed posing a risk to other property or life. The impacts are thus considered to be acceptable.

Ecological impacts

The route does not affect or come close to any nationally designated sites or regionally important sites, such as nature reserves. The Ash Grove Lane local wildlife site (LWS) is however affected. The works would involve the complete loss of established habitat where soil is stripped back to facilitate the works, but the land is generally either put to pasture or in active arable use and survey work demonstrates that impacts on flora and fauna here would be acceptable subject to appropriate mitigation and restoration. The immediate term impact therefore leans towards 'negative', particularly so in respect of the LWS, but this becomes neutral in the short and long term due to conditional requirements for restoration. This type of impact is comparable to other forms of development and as the LWS can be restored and/or enhanced without significant detriment, it is considered acceptable.

Particular attention is given to hedgerows and trees as the route crosses a number of field boundaries along its route. Where possible the route has been directed through existing gateways or breaks in the hedge line to minimise loss. Where loss is necessary, the removal of hedgerow would be timed to avoid the bird breeding season. There is potential for negative impact on other protected species, although limited and suitably mitigated through condition, and hedgerows are identified as UK priority habitat. Accordingly suitable restoration of hedgerows is considered important along the route of the pipeline. Hence whilst the immediate and short term impacts are negative and somewhat considerable, the long term benefits through additional tree planting and restoration of the hedgerows secured by condition in the DCO is felt to provide a net gain in biodiversity and to tilt the impacts towards slightly positive.

Additional attention is given to watercourses and that the Hilton and Egginton Brooks also constitute LWSs. Here these would be traversed by subterranean methods. Nevertheless there remains a residual impact on protected species and water quality, as well as nearby ponds which could also contain protected species, by provision of temporary bridges for access and associated temporary works. These provide slightly adverse impacts, but again these impacts are considered to be suitability controlled and mitigated for by way of the conditions to ensure no net harm arises.

Landscape and visual impacts

The short and long term landscape and visual impacts have been considered in choosing the most suitable route. The proposed route avoids, so far as technically possible, features which contribute significantly to the landscape and vistas. Consequently as the route avoids woodland or habitats that are difficult to reinstate and would remain visible for a prolonged period, the landscape can be completely reinstated following construction.

The pipeline would however lead to the loss of some hedgerows and trees (see ecological impacts above) which would take a number of years or decades before they become sufficiently established to balance the negative impacts arising now. In addition there would be visual scarring to land by the works as they are undertaken (including the presence of machinery and so forth) and during the first few growing seasons. Hence the short to medium term impacts would be moderate, although the DCO makes provision for securing appropriate restoration to allow for a long-term neutral impact. This is considered to be a reasonable conclusion.

The Carriers Road compound would have a significant impact in the short term, but on a much more temporary nature. Whilst public aspects are limited by hedgerows, the site is relatively prominent – especially when hedgerow gaps exist – and on relatively level ground to its immediate surroundings whilst slightly elevated to Egginton. The presence of temporary structures, lighting, pipe and materials storage and plant and machinery storage would industrialise this location. This would be a significantly negative impact. However the crucial point is that the impacts would be relatively short lived in the context of the likely phasing of works along the route, and that full restoration of the land in the immediate to short term following the works can ensure a neutral effect. This impact is on balance considered to be acceptable.

Noise and vibration impacts

The generally rural context of the route and distance to nearby dwellings means the prospect of noise and vibration becoming a major issue is reduced. The development would have no operational noise except possibly around the block valve, and construction noise would be temporary, during daytime hours and generally only during the week for only a number of months. The DCO sets out suitable times for construction and movements of HGVs and the Environmental Protection Officer provides no objection in these respects. The impact here is felt to be slightly adverse but it is acknowledged it would be short term.

Since initial consultations permission has been granted for dwellings to the north of Willington which would be immediately adjacent to a likely section of horizontal drilling. There was already a residual concern as to impacts arising from such works and should the housing be developed and occupied prior to the installation of the pipeline, there would be receptors in much closer proximity. However a condition of the DCO provides for prior approval of noise management methods satisfying any concerns. Vibration impacts are felt to be acceptable. The Environmental Protection Officer did request that the impacts of any de-watering equipment be considered, specifically in relation to noise mitigation, given such equipment may need to operate close to residential property and require a temporary acoustic barrier provision. Whilst not specifically outlined in the DCO, the condition does allow for consideration of this matter. This is not an unreasonable conclusion and hence whilst noise impacts could be significant where a certain working approach is necessary, the hours of operation and prior approval requirement can make these negative short term impacts acceptable.

Highway and rail safety impacts

A primary focus of Willington Parish Council was the routing to and from the Power Station compound and works. Indeed routing to and from the Carriers Road compound is also as relevant. However the TS sets out that construction delivery vehicles would approach from the Twyford direction for Willington, and from the A38/Castleway junction for Carriers Road. This is secured by way of a prior approval condition in the draft DCO, and requires provision of a suitable signage scheme too. The impact on existing congestion, etc. is therefore considered to be neutral.

The proposed accesses to public highways are:

- 2 temporary accesses off Etwall Road, Egginton
- 1 temporary access off Carriers Road (A5132), Egginton
- 2 temporary accesses off Ash Grove Lane, Egginton

- 2 temporary accesses off The Castle Way, Willington
- 2 temporary accesses off Findern Lane, Willington
- 1 existing access off Twyford Road, Willington (the existing power station access)

The accesses off Carriers Road, The Castle Way, Findern Lane and Twyford Road are all deemed “primary” accesses; the remainder being “restricted”. A primary access would be used for all construction traffic, whereas restricted accesses are not suitable for construction traffic but may be used as a plant crossing. There is little concern with these designations when considering the likely number of construction vehicle movements in any given day and the classification/suitability of these roads and the surrounding network. None of these access points are in areas of known peak hour congestion, although Carriers Road and The Castle Way are well trafficked. Again the impact may be leaning towards slightly adverse when it comes to construction vehicles turning in and out of accesses, or plant crossing, but the impact is not considered to represent a highway safety issue – rather a minor or unnoticeable delay to other road users’ journeys.

Heritage impacts

The route does not affect any listed buildings or settings thereof, leaving consideration to the impact on the Trent and Mersey Canal Conservation Area and archaeological potential. The impact on the Conservation Area would be of temporary limited harm with plant and machinery and works exhibiting their presence on the enjoyment of the Conservation Area during the course of construction. As micro-tunnelling or horizontal drilling would be used to traverse the canal, there would be no direct impacts. The overall impact is therefore short term and felt to be neutral.

As to archaeological impacts, the full comments from the Development Control Archaeologist notes that a comprehensive assessment of archaeological potential within the pipeline corridor is presented within the ES and makes provision for detailed archaeological method statements for each phase of works to be agreed in advance with the County Council and with English Heritage. This assessment incorporates areas of higher sensitivity under County records. This confirms an acceptance in principle and is rightly the correct place for detailed project design. As such the condition in the DCO is acceptable to ensure appropriate identification, removal and recording of finds, and consequently whilst there is a negative impact due to potential disturbance of remains, this is neutralised by the conditional control.

Land use and amenity impacts

A handful of public footpaths and cycle ways would be affected by the route, although the likely manner of installing the pipeline would limit these impacts. Immediately adjacent to the Power Station, the pipeline would be installed by subterranean methods meaning that both a footpath alongside the railway and the canal towpath (and cycle route) remain unaffected (a neutral impact). The next footpath affected crosses a field immediately to the west of Etwall Road, Willington. Here there is also likely to be micro-tunnelling or horizontal drilling due to the need to pass under the level crossing, and it may be that open cut does not recommence until beyond the footpath. Nevertheless if there is a need to use open cut the impact on the route would be temporary, with a diversion likely made to facilitate continued use of surrounding routes. Again a neutral impact is envisaged here.

Elsewhere no publically accessible land, such as recreation grounds or nature reserves, is affected. Temporary lighting is subject to prior approval. The works would have a temporary impact on visual amenity from public vantage points, including from private residential property, but the degree of overall harm arising is considered to be limited and acceptable.

Air quality, waste, animal health, socio-economics and climate change

The DCO makes provision for controlling dust emissions arising from the works, ensuring that impacts can be made acceptable here. Soil handling is also catered for, such that waste material can be appropriately dealt with.

It is noted the ES and TS outline a likely construction period of 6 to 8 months and a peak project workforce of some 100 persons, although assuming construction is underway at several locations along the 27km length, the average is expected to be less than half this. This creates a slightly elevated demand on independent local services and facilities, including hotels and so forth. This is considered to provide a positive impact on the local economy. The impact on publically funded services is not considered to warrant need for mitigation, with this limited to only healthcare should the need arise during construction. This is not dissimilar to the same risk which might exist to service capacity from any other development, and thus is considered to be a neutral impact.

Any other impacts arising are considered to be negligible, and climate change is not considered to pose a threat to the long term operation of the installation or linked power station, nor is the use of gas for energy production in principle considered to materially contribute to man-made climate change.

Decommissioning and abandonment impacts

It is highly unlikely that either would occur, as properly maintained pipelines should operate indefinitely. If decommissioning is necessary, the pipeline would be filled with an inert gas kept at pressure to secure against collapse. If abandoned, the pipeline is filled with a cement grout. This would require excavation of a number of entry points along the route to facilitate this exercise, but it is unlikely to have any significant impacts. Overall this consideration is felt to give rise to a neutral impact.

Summary and assessment against policy

The main considerations for this Council relate to potential for noise disturbance arising from specialist installation works and machinery (e.g. horizontal drilling and de-watering equipment); potential for contaminated ground to affect adjoining land or property by way of creating a new pollutant linkage; potential for flooding to land and property during construction of the pipeline; loss of archaeological remains; loss of hedgerow and trees; highway impacts arising from the construction phase; and visual and landscape impacts – immediate, short term and long term.

The vast majority of these impacts are considered neutral or slightly adverse, but with appropriate mitigation and prior approval of this mitigation under conditions within the DCO, impacts are negligible or neutral overall. The areas where greater impacts could or would arise (noise, ecology and landscape/visual) are given particular attention. Here

conditions are appropriately worded to ensure appropriate protection or compensatory planting and net biodiversity gain, although it is accepted that a considerable visual impact in the immediate to short term would be unavoidable. Nevertheless the overall visual impact once works are complete and the land is restored would be limited to ground which is in the process of re-vegetating and pipeline markers. In the overall context this impact is therefore considered to be acceptable.

The above assessment therefore identifies some conflict with saved policies 1, 9 and 11 of the Local Plan, and policies SD4, SD8 and BNL4 of the emerging Plan. There is also conflict with paragraphs 103, 109, 118 and 123 of the NPPF. However conditions under the DCO provide for suitable control and/or mitigation to neutralise these conflicts and in some areas tilt the balance towards positive impacts. Considerable support is found under policy SD3 of the emerging Plan and paragraphs 95 and 98 of 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

That the Committee:

- A. Endorses the content of this LIR;
- B. Agrees that the submission of the LIR to the Examining Authority (the Planning Inspectorate) is delegated to the Planning Services Manager; and
- C. Notes the latest position concerning the Willington C Gas Pipeline proposals set out in this report.

Item 1.2

Reg. No. 9/2013/1000/SMD

Applicant:
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Proposal: **THE ERECTION OF TWENTY THREE ONE, TWO, THREE AND FOUR BEDROOM HOUSES WITH ASSOCIATED PARKING, GARDENS AND ACCESS AT COTON PARK LINTON SWADLINCOTE**

Ward: **LINTON**

Valid Date: **03/12/2013**

Reason for committee determination

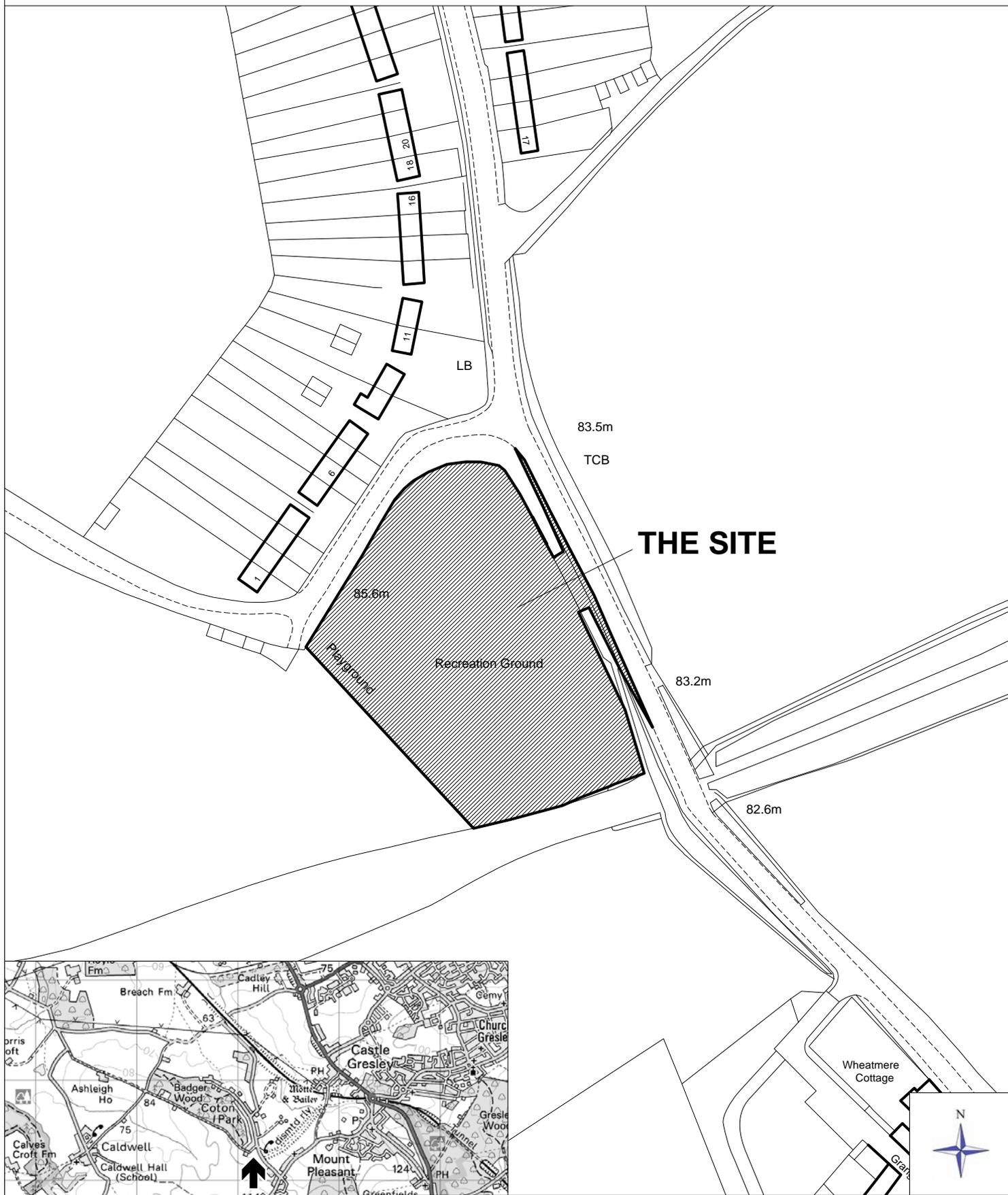
The application is for major development that is not in accordance with the development plan and the Council is the applicant. The application is therefore a Regulation 4 development.

Site Description

The application site comprises an informal area of grassed open space to the south of existing housing at Coton Park. It has a site area of 6.637 square metres (0.66ha) and is enclosed with fencing, trees and hedges. It has a shallow incline rising by approximately 5m from north to south. There is existing two-storey, high-density housing to the north and open fields to the west, south and east. It lies outside the village confine boundary (as defined by the Local Plan), the southern edge of which runs along the frontages of housing opposite.

Proposal

The proposal, which is for a 100% affordable housing scheme, is for the erection of 22 two-storey, semi-detached dwellings and 1 two-storey, detached dwelling comprising the following mix: 4 x 1-bedroom units, 12 x 2-bedroom units, 6 x 3 bedroom units and 1 x 4 bedroom unit. This provides a density of approximately 34 units per hectare which is similar to surrounding developments in Linton. Car parking would be provided to the ratio of 2 spaces per dwelling. Vehicular access into the site would be from the main road into Coton Park from Hillside Road. This would lead to an adopted turning head, with private drives used to access the majority of the dwellings. An area of public open



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space is shown to the south of the proposed development, which would be landscaped and planted with trees.

The scheme is one of several throughout the District that are being put forward by the Council for affordable housing projects that would be developed and managed by the Council rather than involving other social housing landlords.

Applicants' supporting information

The proposed scheme contributes towards Members' objectives to the delivery of 50 new affordable council homes as part of the Council's New Build Programme agreed at Housing and Communities Services Committee on 18th April 2013.

The Council's Director of Housing and Environmental Services reports that there are currently over 2,000 households on the Council's housing waiting in need of affordable housing with many of them having very little prospect of being housed in the short term. The Council must do what it can to alleviate this demand. In the current economic climate, funding for new affordable housing for local communities is limited, as therefore is the Council's opportunity to purchase sites on the open market. This is a good location for affordable housing, it is within an easy walk of the village of Linton, on a local bus route and parking is provided within the site for those wishing to travel by car. With this site the Council has to opportunity to provide a range of affordable housing for both young people and families, which would enhance and support the long-term sustainability of the area.

A Design and Access Statement (DAS) has been submitted which includes an assessment of the site, the extent of community involvement, an evaluation of the site and design. The DAS details the planning policies in the Emerging Local Plan that have been used to support the proposals, namely, S3 (Housing Need), BNL1 (Design Excellence) and H22 (Housing Balance). It also details the level of public consultation that was undertaken including a meeting held between the District Council and the Parish Council. The DAS concludes by assessing the proposals against the Building for Life criteria with a total score of 15.5, which would achieve a silver standard under the previous BfL criteria. As a summary the benefits of the proposed scheme are:

- Well thought-out site specific design
- Delivers 23 semi-detached and detached houses to match the local need with required tenure
- Designed with full lifetime homes for 2 of the 2-bedroom houses
- 2 parking spaces per dwelling for 2, 3 and 4-bedroom houses
- Housing design as a modern interpretation of the local vernacular

There are no known protected species within the site that would be affected by the development.

Planning History

There is no planning history relevant to this application.

Responses to Consultations

The County Archaeologist considers that the site forms a small peripheral element of a large c25.5ha block of earthwork ridge and furrow, of which the most significant block is located to the south of the former railway line. This site is one of the least well-reserved parts of this large block, with degraded ridge and furrow earthworks. Therefore the ridge and furrow earthworks within the site are of low archaeological significance and there is no need to place an archaeological condition on the applicant.

The County Highway Authority has no objections subject to seven conditions and associated advice.

The Crime prevention Officer has no objections subject to appropriate boundary treatments.

Severn Trent Water has no objections subject to a condition regarding foul and surface water drainage.

The Environmental Protection Officer (contaminated land) has requested a condition relating to ground gas and any contamination identified during construction works.

The National Forest Company is concerned that the scheme does not include any tree planting and that such planting should be undertaken on other land owned by the Council in the vicinity of the site or, alternatively, a commuted sum of £2,600 should be made, based on the calculations in Policy 18 of the Emerging Local Plan. It may also be appropriate to accommodate some individual trees within the scheme to the front of blocks C and D.

Derbyshire County Council has responded as follows:

- The local County Council Member, Kath Lauro, comments on the shortage of school places, with children from the same family having to attend different schools owing to the shortage; consideration should be given to the need for additional housing for disabled and older people; additional pressure on local health services and facilities; sprinkler systems should be incorporated.
- Officer comments relate to a request for developer contributions by way of the following:
 - £28.61 per dwelling towards the provision of a new Household Waste Recycling Centre in South Derbyshire (£658.03);
 - Access to high speed broadband services for future residents (in conjunction with service providers);
 - £45,596.04 towards 4 primary pupil places at Linton Primary School;
 - £51,528.51 towards 3 secondary pupil places at The Pingle School;
 - £18,627.90 towards the provision of 1 post-16 place at The Pingle School;
 - New homes designed to Lifetime Homes standards.

Responses to Publicity

Linton Parish Council strongly objects to the planning application of the following grounds:

- This is a greenfield site which would be a big loss of the village and the surrounding area, with local residents using it for dog walking. It should remain as open space;
- Visitors would park outside existing residents' properties or block access to the adjacent lane;
- The location of the site entrance would be dangerous given the proximity to a bend in the road;
- Concerns with regard to future occupants, anti-social behaviour and the site becoming untidy/unkempt;
- Concerns about the negative impact on the value of properties, particularly in Coton Park.

Nine letters and emails have been received, all of which object to the proposals on the following grounds:

- a. Highway safety risks at the site entrance owing to restricted visibility, a dip in the road, likelihood of on-street parking by visitors, vehicle speeds and potential commercial vehicle parking;
- b. Potential problems caused by future residents;
- c. Impact on the current balance of private and 'Agency' housing in the area;
- d. Impact on house prices/devaluation;
- e. Loss of greenfield/public open space currently used by local residents for dog walking and recreation;
- f. More suitable urban sites are available for development, such as Linton Heath allotments or the coal stockyard;
- g. Inconsistent with other planning decisions demonstrating dual standards – lack of openness on behalf of the Council;
- h. Lack of capacity in local schools;
- i. Suitability of local sewers should be evaluated and local residents informed of the outcome;
- j. There is sufficient social housing and Gypsy sites in the District;
- k. Impact on Grange Farm, which is a listed building;
- l. Council has taken the easy route without consideration for the environment, local facilities, sustainability and safety;
- m. The land was to have been left in perpetuity to the village as a play area for village children, which is much safer than the play area at the far end of Coton Park;
- n. The site has never been cultivated and is a haven for wildlife;
- o. Suitability of soil as it may contain Anthrax spores from a cow that died on the land;
- p. Density is too high for Coton Park and the design is out of keeping;
- q. Destruction of a unique location with modern properties being alien to existing 1920s housing;
- r. 25% increase in population of Coton Park which is not a village but a single street with no facilities;
- s. An elevated site leading to overlooking, loss of view and loss of sunlight;
- t. Overwhelming opposition from local residents at the public consultation exercise;
- u. The proposed recreation space should be made available to all residents, not just children;
- v. Will the frequency of the bus service increase?

- w. The parking of caravans on front driveways should be prohibited;
- x. Proposal to reduce street lighting will pose a serious accident risk;
- y. The site acts as a soakaway for the field to the south – if built on this would exacerbate flooding on the road network;
- z. A decision to provide allotments on the site was abandoned owing to Saxon faults;
- aa. Small communal area will encourage use by local youths to congregate and loiter;
- bb. Inconsistencies relating to the imposition of a TPO on Badgers Wood to preserve the character of the countryside and allowing this development that would harm the character of the area;
- cc. Possibility of covenants on the land.

Development Plan Policies

The relevant policies are:

Saved Local Plan: Housing Policies 5, 8, 9, 11; Environment Policies 1, 10, 11; Transport Policy 6, Tourism & Recreation Policy 4, Community Facilities Policy 1B

Emerging Local Plan: Strategy Policy S4, Housing Policies H22 and H23, Built and Natural Landscape Policy BNL1

Housing Design and Layout SPG

National Guidance

National Planning Policy Framework (NPPF), paragraphs, 7, 8, 9, 10, 11, 12, 13, 14, 17, 28, 47, 49, 50, 55, 56, 57, 58, 59, 61, 69, 109, 112, 118, 119, 186, 187, 196, 197, 203, 204, 206

Planning Considerations

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

- The Development Plan and the NPPF
- Design and Layout
- Highway Considerations
- Miscellaneous Issues

Planning Assessment

The Development Plan and the NPPF

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that 'if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.

Paragraph 14 of the 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 planning 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 of the NPPF advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.

The application site lies outside, but close to, part of the southern edge of the settlement confine boundary of Coton Park. As such the proposal would not be in accordance with Local Plan Saved Housing Policy 5 or Environment Policy 1, both of which restrict new housing developments to those that can be accommodated with village confines. Notwithstanding this, paragraph 216 of the NPPF allows for due weight to be given to relevant policies in emerging plans, according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies; and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

Policy S4 of the Emerging Local Plan places Coton Park within the category of a Rural Village where limited infill and conversion of existing buildings and affordable housing 'exception' sites are considered to be acceptable. Housing Policy 23 relates specifically to affordable housing and states:

'Exception sites for affordable housing for local people to be kept in perpetuity will be permitted adjoining existing rural settlements on small sites (less than 10 dwellings) as an exception to normal policy where:

- a) the development will provide affordable homes that meet a clearly identified need in the specific settlement; and*
- b) the need cannot be reasonably met within the development limits of the village concerned or the sub-market area the site falls within as details in the SHMA; and*
- c) the development is in scale relative to the settlement size and does not have any adverse impacts on the natural and built environment'.*

Clearly, the proposal would not accord with the relevant policies in the adopted Local Plan, however, it is considered to comply with the advice relating to sustainable development and affordable housing provision in the NPPF and, to a certain degree, the relevant policies in the emerging Local Plan relating to affordable housing and exceptions sites, although under the emerging Local Plan policy it would restrict the number of dwellings to a maximum of 10. Whilst the development is likely to impact on the character of the countryside, the NPPF makes allowance for the development of sites that are close to existing settlements provided that the site is sustainable. It should be noted that Coton Park itself does not have any facilities; however, its location close to the village of Linton with its services and facilities is such that it is feasible to

reach these on foot quite easily and therefore, on balance, the site is considered to be sustainable and the principle of affordable housing on the site is acceptable.

Design and Layout

Following several adverse comments from the County Highway Authority with regard to the vehicular access the layout of the scheme has been re-designed so that the access now leads off the main Coton Park road at an angle of 90 degrees and terminates at a turning head to the front of plots 16-21. The remaining plots would be accessed via private drives, with only the main vehicular access and the turning head eventually being adopted by the County Council.

All dwellings would be of two-storeys and set within fairly spacious plots. Parking spaces would be predominantly to the side or rear of properties. Whilst the majority of the dwellings would be constructed from brick, some elevations would be rendered, which would reflect the some of the existing properties on Coton Park. The four, 1-bedroom units would be within a central block, which would be square on plan with the bedroom and bathroom on the ground floor and lounge, dining and kitchen at first floor level. Blocks A and B (two semi-detached dwellings per block) would face the recreation area in order to provide a level of natural surveillance. Two detached dwellings would be positioned either side of the vehicular access and a pair to semi-detached dwellings would face Coton Park road. Boundary treatments would be either 900mm railings, 1.8m close boarded timber fences, 1.8m brick walls or timber knee rails.

The proposed layout and design of the dwellings would result in a relatively spacious development which is considered to be a good transition between the more densely developed properties characteristic of Coton Park and the open countryside. There would be no issues relating to overlooking as the minimum distances in the Housing Design and Layout SPG have all been met. Overall, it is considered that the design and layout accord with Local plan Saved Housing Policy 11, the advice in the SPG and paragraphs 56 and 57 of the NPPF.

Highway Issues

The County Council has assessed the amended scheme and is now satisfied that it would provide an acceptable alternative to that originally proposed in terms of highway safety. Whilst only part of the estate roads would be adopted, the remaining private drives would be of adequate width in order for two vehicles to pass each other. No other concerns have been raised with regard to increased on-street parking by visitors to the development and there is nothing to justify a refusal on highway safety grounds. With the imposition of conditions it is considered that the scheme accords with Local Plan Saved Transport Policy 6.

Miscellaneous Issues/Other considerations

Under normal circumstances a residential development of this scale would attract financial contributions towards, *inter alia*, recreation facilities, national forest planting, health care and education. As this scheme is for 100% affordable housing as part of the Members' objectives for the delivery of 50 affordable council homes, it is considered that the benefits of the scheme would off-set the need for the usual obligations and consequently they should be waived in this situation.

Some of the issues raised by local residents, such as covenants, loss of view and devaluation of properties are not material planning considerations and therefore carry no weight. The potential disturbance of archaeological interests has been considered by the County Archaeologist, with no concern being expressed. The issue of parking caravans on front driveways would usually be covered under the tenancy agreements. The site is of sufficient distance away from the Grade II Listed Grange Farm buildings so as not to affect their settings. The issue relating to potential anti-social behaviour caused by future occupiers would be controlled either by the police or by the District Council as part of the tenancy agreements.

Conclusion

Subject to the inclusion of conditions, the development is considered to be in accordance with the provisions of the NPPF and planning permission is recommended.

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 4 subject to the following conditions:

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

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

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. PL4001 Revision B, PL4002 Revision C, PL4004 Revision D, PL4006 Revision D, PL4008 Revisions D, PL4006 Revision D PL4024 Revision D, PL4025 Revision D, PL4026 Revision C, PL4030 Revision C, PL4032 Revision C, PL4034 Revision C, PL4036 Revision C, PL4050 Revision C, PL4051 Revision C, PL4052 Revision C, PL4055 Revision C and PL4057 Revision C.

Reason: For the avoidance of doubt, the original submission being considered unacceptable and for reasons of highway safety.

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

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

4. 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.

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 roofs 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 surrounding area.

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. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

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

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

8. No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority (LPA). Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment 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'. Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the LPA prior to the occupation of the development hereby permitted.

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. 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.

10. 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.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, none of the dwellings hereby permitted shall be enlarged or extended and no new windows installed 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 the street scene.

12. 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.

13. 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.

14. Before any other operations are commenced, a new estate street junction shall be formed to Coton Park in accordance with the revised application drawings, laid out, constructed to base level and provided with 2.4m by 43m visibility splays in either direction, the area in advance of the sightlines being levelled,

constructed as footway and not being included in any plot or other sub-division of the site.

Reason: In the interests of highway safety.

15. The premises the subject of the application shall not be occupied until the proposed new estate streets between each respective plot and the existing public highway have been laid out in accordance with the revised application drawings to conform to the County Council's design guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

16. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the revised 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.

17. 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.

18. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

Informatives:

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.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway [new estate street] 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 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness. 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, Traffic Management - telephone 01629 538686.

Attention is drawn to the comments from the Crime Prevention Design Adviser with regard to proposed boundary treatments for plots 5 and 8 and the open land to the rear of block D.

The phased risk assessment should 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.

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

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at www.coal.decc.gov.uk Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

Item 1.3

Reg. No. 9/2013/1020/FM

Applicant:
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White Lane
Shottle
Nr Belper
DE56 2EB

Agent:
Mr Joshua Botham
Bothams Architectural Design
11 Norton Avenue
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Chesterfield
S40 3NG

Proposal: THE CONVERSION OF A BARN TO DOMESTIC ANNEXE
WITH TWO STOREY CONSERVATORY AT 80 MAIN
STREET WESTON ON TRENT DERBY

Ward: ASTON

Valid Date: 24/12/2013

Reason for committee determination

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

Site Description

The application affects a traditional two-storey building set behind the existing dwelling. It was apparently originally used for business purposes but appears to have been used in more recent years for purposes incidental to the enjoyment of No 80 Main Street.

The principal elevation of the building faces towards the rear garden boundary of No 78 at a distance of some 8 m at the nearest point, widening to 9m at the far end, reflecting the building's canted alignment relative to the host and the adjoining dwellings.

Proposal

The application proposes conversion and extension of the outbuilding to form self-contained ancillary living accommodation. Initially proposing a two-storey conservatory at the rear of the building this element has been amended to a single storey extension. Vehicular access would be as existing.

The conversion scheme would use the existing door and window openings. The ground floor would provide two bedrooms with single storey conservatory extension, and the first floor would be an open plan living room and kitchen.

Applicants' supporting information

The annex would be occupied by the applicant's family.

Planning History

9/1999/0940 – Two storey extension - permitted.

Responses to Consultations

Sever Trent Water Ltd has no comment.

The Highway Authority has no objection subject to a condition restricting occupation to members of the household at 8 Main Street.

Responses to Publicity

The Parish Council objects on the grounds of overpowering effect on No 82 Main Street, excessive size of building as an annex, loss of parking and turning space and increased traffic.

Two neighbours object as follows:

- a) There would be overlooking to No 78 resulting in loss of privacy.
- b) There would be an overbearing effect on No 82.
- c) The annex would be large and could become a separate house in the future.
- d) Additional vehicles would cause noise and pollution.
- e) Loss of existing garage space would make manoeuvring vehicles more difficult.

Development Plan Policies

The relevant policies are:

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

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)
Paras 186 & 187 (Decision-taking)
Para 196 & 197 (Determining applications)
Paras 203-206 (Planning conditions and obligations)

Planning Considerations

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

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

Planning Assessment

The principle

The site lies in the village confine and residential development is thus supported in principle by saved Housing Policies 5 & 7. Paragraph 55 of the NPPF favours housing where it enhances or maintains the vitality of rural communities, including development in one village which may support local services in a village nearby. Weston has small scale local facilities including a bus service via Aston on Trent. There is also a footway link to the larger settlement of Aston on Trent. In these circumstances, by re-using an existing building within the built up framework of the village the proposal represents sustainable development in principle.

Residential amenity

Testing the development against Saved Housing Policy 11 and its supplementary planning guidance, the submitted amended scheme complies with the guidelines for protecting existing neighbours' habitable room windows. This is an unconventional layout, being set well back in the site and with its main elevation facing No 78. Nevertheless the relationship between the two is compliant with the minimum separation guidelines. It should also be mentioned that whilst the application would be for an independent living unit, the building could also be used as ancillary accommodation without the need to apply for permission on the basis that by the passage of time it has, on the balance of probability, become part of the residential planning unit. Notwithstanding this a condition to control occupation such that it does not form a new planning unit is necessary, as the building's relationship with the host dwelling would only be acceptable on the basis of common family occupation.

Impact on the character of the area

Being set behind existing housing there would be little impact on the character of the area. Nevertheless the design of the scheme respects the existing fabric of the building and its openings, which accords with Saved Housing Policy 7 and Chapter 7 of 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. PL03 RevA received on 298 January 2014.

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

3. The living accommodation hereby permitted shall be occupied solely by members of the household of 80 Main Street Weston on Trent or by domestic staff, and shall not be severed from the main house as a separate and unconnected dwelling.

Reason: Although the conversion of the building erection to provide additional accommodation to be used in conjunction with the existing dwelling is acceptable, the Council would not normally be inclined to allow the formation of a separate residential unit in this particular location. Since the extension includes all the domestic facilities necessary for the establishment of a separate self-contained unit, the Council hereby seeks to make it clear that separate occupation is not authorised by this permission.

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 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 1.4

Reg. No. 9/2013/1035/TP

Applicant:
SDDC
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE
DE11 0AH

Agent:
MR MARTIN BUCKLEY
SDDC
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE
DE11 0AH

Proposal: THE THINNING AND FELLING OF TREES COVERED BY
SOUTH DERBYSHIRE DISTRICT COUNCIL TREE
PRESERVATION ORDER NO. 132 AT PUBLIC OPEN
SPACE WILSON CLOSE MICKLEOVER DERBY

Ward: ETWALL

Valid Date: 18/12/2013

Reason for committee determination

The Council is the applicant; the trees are within a Tree Preservation Order on Council owned land, maintained as public open space.

Site Description

This linear group of trees runs alongside the public highway and helps screen the backs of a number of residential properties.

Proposal

The works involve selective thinning within the group and more specifically the removal of 5 trees near to the side/rear of Nos 11 and 19 Finch Crescent.

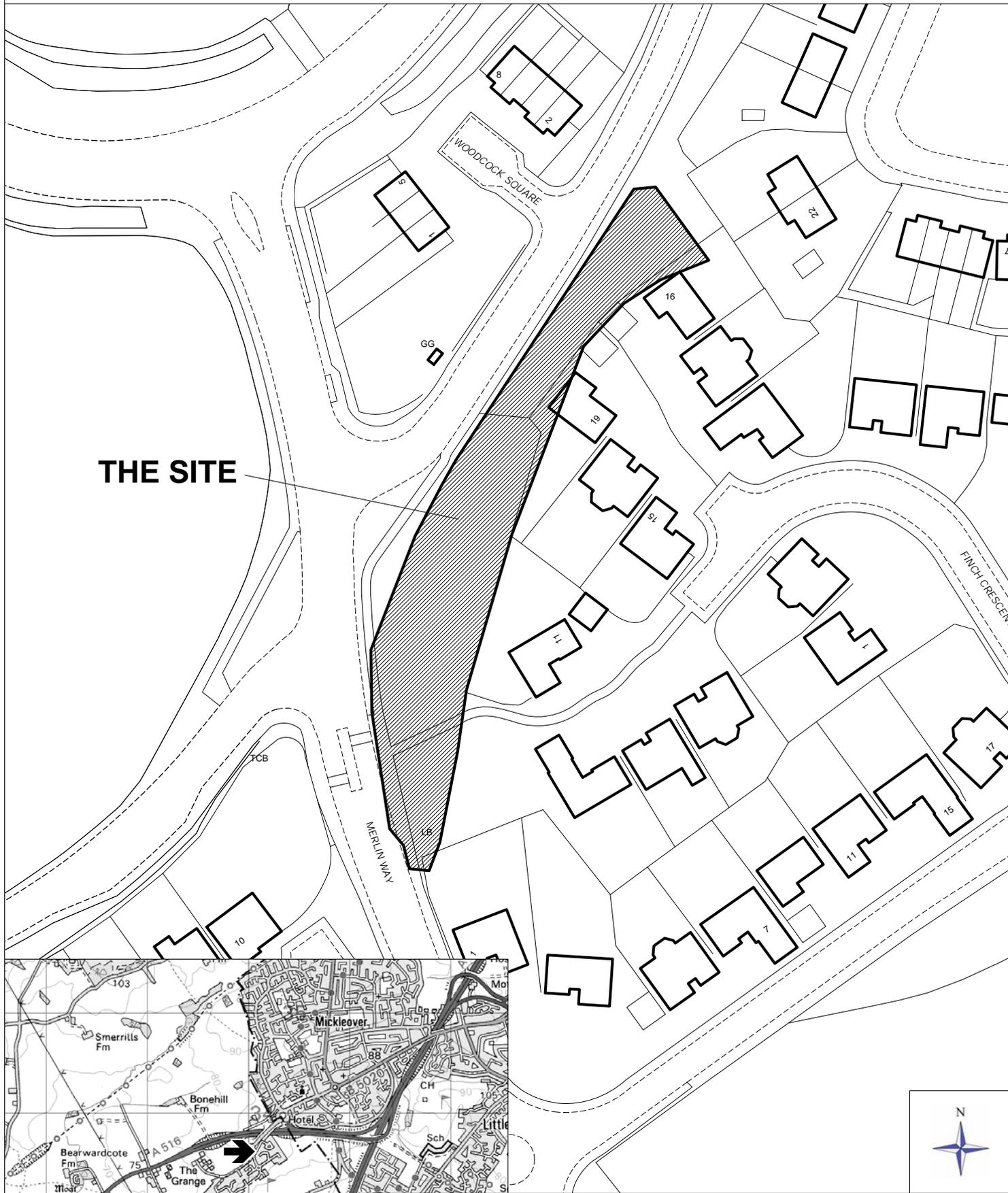
Applicants' supporting information

Some of the trees (within the group) have poor stem taper and are likely to suffer 'wind snap' within the foreseeable future. The 5 (pre identified) trees are causing liveability issues to those adjacent dwellings with falling 'needles' blocking gutters and drains.

Planning History

9/2011/0540/TP – Felling of trees
9/2010/0789/TP – Felling of trees
9/2000/0706/TP – Felling of trees

9/2013/1035 - Public Open Space, Wilson Close, Mickleover, Derby DE3 0TT



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All these applications were approved by the Planning Committee.

Responses to Consultations

None.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are: Local Plan Environment Policy 9.

National Guidance

NPPF.

Planning Considerations

The main issue central to the determination of this application is whether the work proposed is warranted given the protective designation.

Planning Assessment

This group of trees is a part of an estate-wide Order (TPO132) and features a mix of species although mostly Larch and Pine. The works are deemed essential, part of an on-going management programme.

The works are seen not to compromise the overall amenity value of this group and importantly will reduce the likelihood of failure and local 'nuisance'.

Parts of the group (that where most thinning will take place) will be replanted with Hornbeam - a species which should acclimatise to the acidic soil type which exists here.

Recommendation

GRANT permission subject to the following conditions:

1. The works hereby granted consent shall be carried out within two years from the date of this permission.

Reason: To enable the Local Planning Authority to retain control over the works.

2. The work shall be carried out in accordance with BS3998:2010 - Tree Work.

Reason: To safeguard the health of the trees.

2. PLANNING AND OTHER APPEALS

(References beginning with a 9 are planning appeals and references beginning with an E are enforcement appeals)

Reference	Place	Ward	Result	Cttee/Delegated
9/2012/0944	Repton	Repton	Dismissed	Committee
9/2012/0281	Midway	Midway	Allowed	Committee
9/2013/0271	Weston	Aston	Dismissed	Delegated

Appeal Decision

Site visit made on 22 October 2013

by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 January 2014

Appeal Ref: APP/F1040/A/13/2195897
27 Milton Road, Repton, Derby DE65 6FZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Rose Holden against the decision of South Derbyshire District Council.
 - The application Ref 9/2012/0944 dated 7 November 2012, was refused by notice dated 22 January 2013.
 - The development proposed is the erection of detached dwelling (bungalow) with detached garage.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters, except access and scale, reserved for subsequent approval. An indicative layout was submitted with the planning application which led to this appeal. This plan was for illustrative purposes.
3. The Council has drawn my attention to the Draft Local Plan which is at the consultation stage. This is an emerging document and I can therefore afford it little weight in the consideration of the appeal. However, I note that the document does not fundamentally alter the policies of the adopted Local Plan which are relevant to this appeal.

Main Issues

4. The main issues are the effect of the development on the character of the area; the effect of the development on the living conditions of adjoining residents with particular regard to noise and disturbance and whether the development includes provision of a safe and suitable means of access.

Reasons

Effect of the development on the character of the area.

5. The appeal site comprises an area of land at the rear of 27 and 29 Milton Road. Part of the site is used as garden to No 27, part of it is unused land. The area around the appeal site is primarily residential in character and comprises properties of different architectural styles and sizes set in plots of varying

- dimensions. The character of the area is derived from the mix of development rather than one distinctive style or pattern.
6. I note that the Council consider the character of the area is partly derived from the plots having long rear gardens and whilst this is true of Nos 23-29 Milton Road, rear gardens elsewhere - including the gardens bordering the site on Monsom Lane and those on Saxon Croft are much less generous. I do not therefore agree that this is a defining characteristic of the area. The illustrative layout submitted with the application, indicates that even a building with a substantial footprint can be accommodated on the plot with sufficient space around it for use as garden and to avoid it appearing cramped. The building would be sited in excess of the Council's minimum separation distance to neighbouring properties which also indicates a degree of spaciousness. In this regard I find the proposal is comparable to its surroundings.
 7. There are limited examples of backland development in the vicinity. However, it does not necessarily follow that the introduction of a backland form of development in this instance would be necessarily harmful to the character of the area. The proposed dwelling would not have a frontage to the road but it would not be highly visible from public vantage points and would only be glimpsed from Milton Road. Whilst it would be visible from neighbouring properties, it would be partially screened by planting and a condition could be imposed to control and strengthen boundary treatment. The proposed access drive is the only part of the development that would be prominent in public views. However, given the number of domestic access points onto Milton Road at present I do not consider that the introduction of another drive would be an alien or incongruous feature.
 8. Much would depend on matters which have been reserved for future determination, but for these reasons I do not consider that the proposal would have a harmful effect on the character of the area and would not thereby conflict with the aims of the South Derbyshire Local Plan (LP) 1998 Policy H5 which seeks to ensure that development within a settlement is in keeping with its scale and character.

Effect of the development on the living conditions of neighbouring residents

9. The proposed access to the property would be created immediately alongside 27 Milton Road, following the demolition of the existing garage and utility room and adjacent to the boundary with No 29. The boundary between the two properties is currently marked with a chain link fence. There are a number of windows to the side of No 29 including a bedroom window at first floor level that would face the access from a distance of some 2.2m.
10. The proposed access would introduce vehicle movements at the side of the properties and adjacent to the rear private garden space. Such a situation would lead to noise and disturbance from vehicle movements, resulting in a less pleasant residential environment for existing occupiers. Whilst the introduction of a solid boundary fence between the properties would help mitigate against noise and the glare of headlights at ground floor level to No 29, it would not help with noise and disturbance to the first floor bedroom. Late at night such noise would be particularly harmful to living conditions. Furthermore, whilst it may be possible to erect a fence between no 27 and the access, such a structure is unlikely to mitigate against the harmful effects of cars using the driveway in such close proximity.

11. Although not part of the Councils reason for refusing the application, third parties have expressed concern about overlooking and loss of privacy. The application is in outline with matters of design, including the position of windows left to be determined at a later stage. The indicative layout submitted with the application, however, indicates that there would be sufficient separation distance between the proposed dwelling and the surrounding properties to avoid overlooking. However, this does not alter my conclusion on the harmful effects on living conditions due to noise and disturbance.
12. For the reasons outlined above I conclude that the proposal would have a harmful effect on the living conditions of neighbouring residents and thus fails to comply with Housing Policy 11 of the South Derbyshire LP which seeks to ensure that new development provides reasonable amenities for both existing and new dwellings.

Provision of a safe and suitable means of access

13. The proposed access drive would have a length of some 60m from the public highway and a limited width which would be compromised by the overhanging eaves of the existing property. I note that the Highway Authority have recommended that the minimum width of the drive should be 3.1m. This cannot be achieved because of the restricted space available, meaning that it would be inadequate for use by larger vehicles. The restricted width combined with the excessive length of the access would, to my mind, render the access inconvenient for use by future occupiers, for example in terms of moving bins, and for those servicing the property including the emergency services. Two vehicles would not be able to pass on the driveway resulting in vehicle manoeuvring and inconvenience.
14. No objection to the proposal has been raised by the County Highway Authority on the grounds of highway safety. Nevertheless, the failure to provide an adequate access would result in a substandard form of development to the detriment of future occupiers.
15. I note that no facilities for turning have been shown within the site, however I consider this matter could be controlled by planning condition had I resolved to allow the appeal.
16. For the above reasons the proposal is in conflict with Policy T6 of the LP which requires that all development should incorporate adequate provision for access and off-street servicing.

Other matters

17. Neighbours have raised concerns about the effect of the development on wildlife in the area and on traffic on Milton Road. However, there is no firm evidence that the proposal would significantly compromise the habitat of wildlife in the area in the long term. The proposal is unlikely to generate a significant amount of additional traffic onto Milton Road and no objections to the proposal have been raised by the Highway Authority in terms of highway safety.
18. The effect of the development on the adjoining occupier's solar panels has also been raised. The proposed building is shown to be a bungalow which is likely to be lower in height than the neighbouring two storey property and there is no

evidence that the development would compromise the effectiveness of the panels.

19. Noise, dust and disturbance during the construction period is likely to be a temporary matter and one which I can only therefore give limited weight in consideration of the proposal.

Conclusion

20. For the reasons given, and having had regard to all other matters raised, and notwithstanding my conclusions of the effect of the development on the character of the area, the proposal would result cause harm to the living conditions of the existing residents and would not provide a suitable means of access. The appeal is therefore dismissed.

S. Ashworth

INSPECTOR



Appeal Decision

Hearing held on 13 August 2013

Site visit made on 13 August 2013

by I Radcliffe BSc(Hons) MCIEH DMS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 January 2014

Appeal Ref: APP/F1040/A/13/2195600

Former Masons Arms Public House, Burton Road, Midway, Swadlincote, South Derbyshire DA11 7ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Marshall of CDP Limited against the decision of South Derbyshire District Council.
 - The application Ref 9/2012/0281, dated 29 March 2012, was refused by notice dated 9 October 2012.
 - The development proposed is a new retail unit (use class A1) with associated car park and access.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of the public house and erection of a new retail unit (use class A1) with associated car park and access at the former Masons Arms Public House, Burton Road, Midway, Swadlincote, South Derbyshire DA11 7ND in accordance with the terms of the application, Ref 9/2012/0281, dated 29 March 2012, subject to the conditions in the schedule at the end of this decision.

Procedural matters

2. The description of the development advocated by the appellant at the hearing was 'demolition of the public house and erection of a new retail unit (use class A1) with associated car park and access.' I am content that this amended description adequately describes the proposal and I shall use it in the determination of this appeal.
3. In its written response to the costs application the Council submitted a copy of an appeal decision (reference APP/R5510/A/09/2100796, 2100802, 2100800) and commented upon it. This decision was referred to in paragraph 14 of a different appeal decision (reference APP/R5510/E/10/2142656, 2142659, 2142653) submitted by the appellant but was unreferenced. Submission of this decision occurred after the hearing closed. However, as this appeal was dismissed in part because it found the management of parking spaces in relation to store delivery to be wanting it is a material consideration. As a result, this decision, and the comments of both parties in relation to it, has been taken into account in the determination of this appeal.
4. In responding on the aforementioned decision the appellant took the opportunity to comment on other matters. In writing this decision I have only taken the appellant's comments into account insofar as they are relevant to the matter that I invited comment on.

Application for Costs

5. At the Hearing an application for costs was made by Mr J Marshall of CDP Limited against South Derbyshire District Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues in this appeal are;
 - whether or not use of the proposed access for delivery and service vehicles would be safe; and,
 - other material considerations in support of the development.

Reasons

Highway safety

7. The appeal site is a corner plot located at the busy crossroads of the A511 Burton Road with the B586 and Sandcliffe Road. Double yellow lines prevent parking on the road close to the junction. The site is occupied by the disused Mason Arms Public House. The car park serving the building is located on its eastern side on Burton Road. Sainsbury's intend to open a local convenience store in the proposed replacement building on the site. The car park proposed to serve the new building would be in the same location as the existing car park.
8. Transport Policy 6 and Shopping Policies 2 and 3 of the South Derbyshire Local Plan are relevant to the main issue. The 3 policies require between them that adequate access, servicing, manoeuvring and car parking is provided in relation to new development. The Local Plan was adopted in 1998, some 14 years before the publication of the National Planning Policy Framework ('the Framework'). However, the policies insofar as they seek to protect highway safety are consistent with paragraph 32 of the Framework. I therefore attach significant weight to these policies.
9. Since the introduction of signal controls at the crossroads four years ago there has been a reduction in recorded accidents resulting in personal injury at the junction. As a result, the Council has not expressed a view that the junction experiences a high level of accidents, or that it is dangerous. The appellant describes the accident rate as modest. Local residents pointed out that accidents that do not result in personal injury occur, but are not recorded. However, by their nature such accidents are minor. I therefore find that the junction is not part of the highway network where, owing to the incidence of accidents, greater attention than normal needs to be paid to highway safety considerations.
10. Based upon the submitted transport assessment certain matters are common ground between the appellant and the highway authority. These are that the new access proposed further to the east away from the crossroads and the traffic generated by the development would be acceptable. I agree with that assessment.

Number of deliveries and the proposed direction of approach of vehicles

11. There would be 4 deliveries a day; newspapers; milk; bread and general deliveries. In addition refuse would be collected twice weekly. The newspaper delivery would be carried out by a small van, whilst the other vehicles would be some 10m to 11m in length.

12. The appellant proposes that service and delivery vehicles would only approach from the east and would leave in the opposite direction ('right in, left out'). It is not proposed that delivery or service vehicles would approach from the west. This is because the vast majority of parking spaces on the site would have to be kept free in order to enable a vehicle approaching from that direction to turn into the site.
13. Based upon the default speeds of 5km/hour in forward gear, and 2.5km/hour in reverse gear, the appellant's view is that this manoeuvre is practical. Given that the angle of approach to the car park is not acute when approaching from the east, I agree that access could be achieved at this speed by a driver exercising due care and attention. As a result, a markedly slower speed as suggested by the Council, which would unnecessarily prolong the holding up of oncoming traffic whilst turning into the site, would not be necessary.
14. It may be that a delivery vehicle has to wait for a car to exit the car park before it can turn in. However, such short delays are not uncommon in relation to car parks. I have no reason to find therefore that such a delay would demonstrably harm highway safety, or the free flow of traffic.

On site manoeuvring and parking

15. In order to ensure that the delivery and service vehicles could turn on site, so that reversing onto the highway could be avoided when they leave, the appellant proposes that three particular car parking spaces would be kept empty until deliveries for the day are complete. In the Council's view this level of management intervention required on a daily basis to keep these spaces free would be too high. A variety of means were discussed to ensure that the necessary space was kept free. Given that the spaces concerned are the closest to the store entrance, and thus the most convenient for customers, signage alone would not be sufficient to prevent opportunistic parking. Some form of physical barrier, which could be lowered by the store manager or delivery driver, would appear to be the most effective means of preventing parking in the two areas concerned until deliveries for the day have finished. In my assessment, the lowering and raising of such barriers would not amount to an impractical and consistently high level of management intervention.
16. Based upon the information from Sainsbury's and the appellant, refuse collection and all daily deliveries, with the exception of the general delivery would be completed by 2pm. The general delivery would generally occur during the morning, but could take place during the afternoon. As a consequence, it is possible that the 3 parking spaces required to be kept free for deliveries, out of the total of 13 available, could be out of use for most of the day. This would leave 10 parking spaces, plus one disabled space, free for use.
17. The County Council's car parking standards date from 1994. As such they are old standards. For general shops of the size proposed the standards seek 13 customer spaces and 4 staff spaces. However, these standards are not based on a current assessment of the criteria contained within paragraph 39 of the Framework. This reduces the weight that I attach to them.
18. Based upon the appellant's assessment of parking demand for a store of this size a peak demand of 6 car parking spaces would exist. It is possible that predicted and actual rates will vary slightly. Nevertheless, the available evidence from a similar Sainsbury's convenience store indicates that the average visit time is 4 minutes and a maximum of 7 minutes during the am

peak. On this basis, I find that the peak demand estimate of 6 car parking spaces is reasonable. Until the final delivery of the day 10 spaces would be available for parking, with an additional disabled parking space. Once a delivery vehicle has entered the car park and reversed into the delivery area none of the parking spaces would be obstructed. As a result, I therefore find that the parking needs of customers and staff would be met. This is consistent with the findings of the Highway Authority.

19. Opportunistic parking within the car park along its front boundary would obstruct the space needed for the manoeuvring of delivery vehicles. Whilst the assessment of parking demand indicates this is unlikely to happen, it could be prevented by the use of surface markings clearly highlighting that no parking should take place.
20. Taking all these matters into account, I therefore find that the appeal could safely accommodate delivery and service vehicles without resulting in overspill on road parking close to the junction that would be hazardous.

Reasonableness

21. The Council's concerns are that compliance with a condition requiring a service delivery and management plan (SD&MP) would be unreasonable. Its reasons are threefold. Firstly, it is not possible to ensure that vehicles enter and leave the site in a particular direction, or to avoid more than 1 vehicle arriving at the site at the same time. Secondly, ensuring that the 3 parking spaces are kept free until deliveries are complete would require intensive management. Thirdly, it would be unreasonable to attach a condition which could not be complied with, or to rely upon third parties, such as delivery / refuse collection companies, for compliance (paragraphs 35 and 38, Circular 11/95 '*The Use of Conditions in Planning Permissions*').
22. In relation to the first matter, I have been referred to a recent permission granted on appeal for a Tesco store in Harefield (reference APP/R5510/E/10/2142656, 2142659, 2142653). In this decision the use of a SD&MP, amongst other matters, was required to control the direction in which vehicles approached and left the site. Use of the SD&MP was supported by a subsequent judgement in relation to the case in the High Court (London Borough of Hillingdon v Secretary of State for Communities & Local Government [2012] EWHC 1557). It found, for example, that in the event of 2 vehicles arriving at the same time the SD&MP could make provision for drivers to be instructed to circulate until the other vehicle has left. For these reasons, the use of a SD&MP for such purposes would therefore not be unreasonable.
23. Turning to the second matter, on the basis of my reasoning in paragraph 14 in relation to keeping parking spaces free, the system of work required would not amount to an unreasonable or onerous level of management intervention.
24. A previously dismissed appeal in relation to the same site in Harefield has been submitted (reference APP/R5510/A/09/2100796, 2100802, 2100800). It found that the daily management intervention required to keep parking bays free to enable deliveries to occur would have been too high. However, in that appeal the SD&MP allowed the car park spaces, which needed to be kept clear for deliveries to occur, to remain in use until shortly before the arrival of a lorry. The Inspector found that the customers parking in these spaces would probably make visits to other nearby shops. As a consequence, he decided that it was likely that these parking spaces would remain occupied for longer than expected. He concluded that as a result this would prevent waiting lorries from

safely unloading without a high and consistent level of management intervention.

25. In the proposed development, which is the subject of this appeal, such a scenario would be avoided. This is because parking in the spaces which need to be kept free would be prevented until the final delivery of the day had been completed. As a consequence, this case is not directly comparable to the proposed development and it has not altered my assessment of the level of management intervention required.
26. In relation to third matter, the Council envisages that agreement in relation to a SD&MP required by condition could not be achieved. As a result, its view is that such a condition would be unreasonable as it would mean that the permission could not be implemented (paragraph 35 of Circular 11/95). However, for the reasons that I have given this concern is not well founded. Furthermore, in the unlikely event that agreement could not be reached a right appeal to the Secretary of State would exist.
27. With regard to paragraph 38 of Circular 11/95, the occupier of the premises would be reliant upon third parties for certain deliveries and for refuse collection. The arrangements governing the size of vehicles, the direction in which vehicles enter and leave the site, and other matters, could be controlled by contract. As compliance would not therefore be reliant upon the consent or authorisation of a third party, a SD&MP condition would not be unreasonable in this regard either.
28. Paragraph 71 of Circular 11/95 has also been referred to. It advises that conditions should not be used to control the right of passage over public highways. However, to my mind this advice relates to a condition seeking to prevent a vehicle from using certain roads, rather than controlling the direction in which a vehicle turns into or out of a site.
29. For all of these reasons, I therefore conclude that a condition requiring compliance with a SD&MP would be reasonable.

Enforceability

30. In relation to enforceability of a SD&MP, it would be readily apparent if a delivery or service vehicle was approaching from the west rather than the east. Similarly, if the vehicle was longer than that agreed in the SD&MP it would be unable to enter the car park, unless most of spaces were empty. As a consequence, this could also be confirmed by observation. This may involve time and expense on the part of the Council, but I do not consider that it would be impractical for them to do so. In addition, if at the time of an enforcement visit the 3 restricted car parking bays were in use this would mean that the final delivery of the day had been completed. Examination of the delivery paperwork held by the store would show whether the final delivery of the day had actually occurred. If it had not this would be evidence that the SD&MP had not been complied with.
31. Furthermore, given the extent of local concern regarding the development, should vehicles enter the site from the wrong direction, or reverse out of the site, local residents are likely to be able to provide clear evidence of any breaches. For these reasons, having regard to Circular 11/95 'The Use of Conditions in Planning Permissions' a condition requiring that an agreed SD&MP is in operation would be practical to enforce.

Different occupier

32. Planning permission would run with the land. If another business with different operational requirements was considering occupying the premises it would need to submit a revised SD&MP for agreement by the Council. In the event of a change of occupier the Council would therefore be able to retain control over servicing and delivery arrangements.

Conclusion on the first main issue

33. For all of these reasons, I therefore conclude that the use of the proposed access by delivery and service vehicles, subject to the attachment of, amongst other conditions, an appropriately worded SD&MP condition, would be safe. It would therefore comply with the objectives of Transport Policy 6 and Shopping Policies 2 and 3 of the Local Plan and paragraph 32 of the Framework.

Other factors in support of the development

34. Sustainable development, which includes sustainable economic growth, and the presumption in its favour are at the heart of the Framework. The Ministerial Statement '*Planning for Growth*' states the Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.
35. Environmentally, the appeal site is disused previously developed land which the proposal would redevelop and bring back into use. The site is in a sustainable location with regard to custom: local people would be able to walk or cycle to the store. The new building is a contemporary design that would add to the overall quality of the built environment. Economically, the development would result in construction employment and upon completion a mixture of up to 25 part time and full time jobs would be created. It would also have a social role in widening the choice of accessible local shops without, on the basis of the work accepted by the Council, having a significant adverse impact on existing shops. In terms of highway safety, subject to compliance with a SD&MP condition, and other conditions attached to the permission, the development would be safe. Taking all these matters into account, the proposal would therefore be a sustainable development.

Other matters

36. The Mason Arms is in a prominent position and is a local landmark. However, it is not listed, nor is it of listable quality. In terms of design, the proposed building would confidently occupy the plot without dominating neighbouring development. It would also turn the corner well. For these reasons, although it is a contemporary design, it would add to the overall quality of the built environment.

Conditions

37. For the avoidance of doubt, and in the interests of proper planning, I shall identify the approved plan in a condition attached to the permission and require that the development is carried out in accordance with it. To protect the living conditions of neighbouring residents from noise and disturbance the opening hours of the store and hours of delivery need to be controlled. Weekends, bank and public holidays are valuable times for rest and relaxation. A narrower window for deliveries is therefore appropriate on these days.

38. In order to ensure that the development complements its surroundings further details on materials, landscaping and boundary treatments (means of enclosure) are necessary. In the interests of highway safety, hard landscaping works need to include the layout and surface marking of the car park. For the same reason, the layout and markings needs to be retained and the car park used only for the parking and manoeuvring of vehicles. To ensure that any planting becomes well established it needs to be well maintained. Given the potential for harm to the living conditions of nearby residents control needs to be exerted on the location of external lighting. For the same reason, noise from air conditioning units or mechanical ventilation on the site needs to be assessed and mitigated as necessary.
39. In the interests of highway safety deliveries and collections to the new store need to be controlled by a management plan. For the same reason before demolition and construction starts the new access needs to be constructed and the existing access and lay by closed. In order to facilitate this the bus stop outside the site on Burton Road first needs to be moved. To control vehicles and storage associated with the redevelopment of the site and protect highway safety a construction management plan is also necessary. I have required all these matters by condition, revising the Council's suggested conditions where necessary to better reflect the requirements of Circular 11/95 '*The Use of Conditions in Planning Permissions*'.
40. A foul and surface water drainage condition was suggested but as this duplicates the requirements for drainage contained within Building Regulations I do not consider that this condition is necessary. A condition limiting the gradient of the new access to 1:20 was also suggested. However, as this could be required by the Council as part of the details submitted in relation to the new access required by condition 13 this is also unnecessary.

Conclusion

41. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed. In reaching this decision the views of local residents and councillors have been taken into account.

Ian Radcliffe

Inspector

Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 1205 (0-) 02 Rev E
- 3) The A1 retail use hereby permitted shall only be open to customers between 0700 hours and 2300 hours daily.
- 4) No deliveries shall taken at or be despatched from the site outside the following hours;
0700 hours to 1800 hours Mondays to Fridays;
0800 hours to 1300 hours on Saturdays;
1000 hours to 1200 hours on Sundays, Bank or Public holidays.

- 5) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until full details of hard landscape works have been submitted to and approved in writing by the local planning authority. These details shall include proposed finished levels or contours; means of enclosure; car park layouts and surface markings; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.) These works shall be carried out as approved prior to the retail unit hereby permitted coming into use.
- 7) The car parking layout and surface markings carried out in accordance with condition 6 shall thereafter be retained and the car park shall not be used for any purpose other than the parking and manoeuvring of vehicles.
- 8) No development shall take place until full details of soft landscape works have been submitted to and approved in writing by the local planning authority. Details shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
- 9) 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 5 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 approval to any variation.
- 10) No development shall take place until details of all external lighting, including luminance, has been submitted to and approved in writing by the local planning authority. The approved lighting shall then be installed in accordance with the approved details and retained as such thereafter.
- 11) No development shall take place until a noise assessment has been submitted to and approved in writing by the Local Planning Authority. The assessment shall detail the potential impact of the development on adjacent properties and identify any mitigation works required to ensure that noise levels generated by air conditioning units and mechanical ventilation do not adversely affect living conditions within the gardens and houses of neighbouring residential properties. All mitigation works required by the approved noise assessment shall be carried out prior to the retail unit hereby permitted coming into use.
- 12) No development shall take place until a Service Delivery and Management Plan (SD&MP) has been submitted to and approved in

writing by the Local Planning Authority. Once the premises are brought into use it shall thereafter be operated in accordance with the SD&MP.

- 13) No demolition or development shall take place on site until;
- a replacement bus stop has been provided on Burton Road with a raised boarding platform and new shelter all in accordance with details first submitted to and approved in writing by the local planning authority.
 - the existing access and lay by has been reinstated as footway in accordance with details first submitted to and approved in writing by the local planning authority.
 - the new access onto Burton Road has been laid out and constructed to base course level in accordance with a scheme first submitted to and approved in writing by the local planning authority.
- 14) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) wheel washing facilities.

APPEARANCES

FOR THE APPELLANT:

Mr Cannock	King's Chambers
Mr Colley	Sanderson Associates (Consulting Engineers) Limited
Mrs Taylor-Hemingway	WYG Planning & Environment
Mr Marshall	appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Nash Area Planning Officer	South Derbyshire District Council
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Ms Highley	Derbyshire County Council
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INTERESTED PERSONS:

Mr Pearson	District Councillor for the Midway Ward
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Mr Dunn	District Councillor for the Midway Ward and County Councillor
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Mrs Peil	local resident
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Mrs Winson	local resident
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Mr Read	local resident
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Appeal Decision

Site visit made on 26 November 2013

by S M Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 January 2014

Appeal Ref: APP/F1040/A/13/2202043

"The Field", Trent Lane, Weston-on-Trent, Derby, Derbyshire, DE72 2BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Dawson against the decision of South Derbyshire District Council.
 - The application Ref 9/2013/0271, dated 10 April 2013, was refused by notice dated 14 June 2013.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the Council's description of development as it is more concise than the appellant's.

Main Issue

3. The main issue is the effect of the development upon the character and appearance of the area.

Reasons

4. The site is on land used for grazing and storage. It is on the edge of Weston-on-Trent but outside the village confines as defined in Housing Policy 5 of the South Derbyshire Local Plan, 1998 (LP) and the relevant inset of the associated Proposals Map. The land is therefore in the countryside for planning purposes where, amongst other things, LP Housing Policy 8 says that new housing will be permitted if it is necessary for the operation of an established, viable and long term rural based activity that requires a countryside location and that the site is well related to other dwellings. However, I have seen no evidence that the proposed dwelling is necessary to support a rural based activity in this location.
 5. One of the objectives of Housing Policy 8 is to protect the character and appearance of the countryside. The site has 2 outbuildings on it but is otherwise undeveloped. It is part of a parcel of open land between two areas of residential development on the edge of the village. The parcel extends southwards to form part of an extensive tract of open countryside that provides
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long range views of the Trent Valley from Trent Lane. The rural character of this landscape makes a positive contribution to the setting of the village. Although the site adjoins established residential development, the erection of a dwelling on the land would encroach into this rural landscape notwithstanding the boundary hedge to Trent Lane, which would only partially screen the development. This encroachment would erode views from Trent Lane across the valley and the farmland around Donington Park, and as such would have an adverse impact upon the rural character of the area.

6. The National Planning Policy Framework (NPPF) sets out a clear a presumption in favour of sustainable development. Whilst the appeal site is not within an area that enjoys the highest status of protection in relation to landscape and scenic beauty, and the proposal would not amount to an isolated dwelling in the countryside as described in the NPPF, paragraph 17 states that the planning system should recognise the intrinsic character and beauty of the countryside. Environment Policy 1 and Housing Policies 5 and 8 of the LP are consistent with these objectives. The proposal would be in clear breach of these national and local policies, and as such would not comprise sustainable development as described in the NPPF. Furthermore, although the design of the proposed house may reflect local building styles and employ suitable materials, these factors do not outweigh the harm to the countryside that would result if the appeal were to succeed.
7. For these reasons, I conclude that the proposed dwelling would have a harmful effect upon the character and appearance of the area, in conflict with LP Housing Policies 5 and 8 and Environment Policy 1 and the NPPF.

Other Matters

8. Recent housing developments near the site have been drawn to my attention. Whilst I am not familiar with the full circumstances of these schemes, and the Council advises that they were approved under different policies, most appear to be within the designated village confines, and I therefore attach very limited weight to these approvals. Large-scale housing allocations on land elsewhere in the District are part of the strategic review of the development plan and have no bearing on the planning merits of this case.
9. With regard to the matter of precedent, if the appeal were to be allowed it could make similar proposals on adjoining land more difficult for the Council to resist and, whilst each proposal should nevertheless be determined on its own merits, this consideration reinforces the objections to the proposal. I acknowledge that the proposed dwelling would incorporate many eco-friendly design features, may provide an affordable home and would be close to bus stops and a cycle route which connects the village to other settlements. However, these factors do not outweigh the harm that I find in respect of the main issue in this case.

Conclusion

11. For the above reasons I conclude that the appeal should be dismissed.

Siobhan Watson

INSPECTOR