

## DEVELOPMENT CONTROL COMMITTEE – 19 April 2005

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

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### REPORT OF THE HEAD OF PLANNING

#### 1. Planning Applications

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

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



19/04/2005

**Item** 1.1**Reg. No.** 9/2003/1525/M**Applicant:**

Roger Bullivant Ltd  
Walton Road  
Drakelow  
Burton On Trent  
DE159UA

**Agent:**

Richard Wood  
Wood Frampton Limited  
Aylesford House  
70-71 Clarendon Street  
Leamington Spa  
CV324PE

**Proposal:** Construction of new road with bridge over River Trent Land  
Between Lichfield Road (A38) And Drakelow Road Walton-  
on-Trent Swadlincote

**Ward:** Seales

**Valid Date:** 10/02/2004

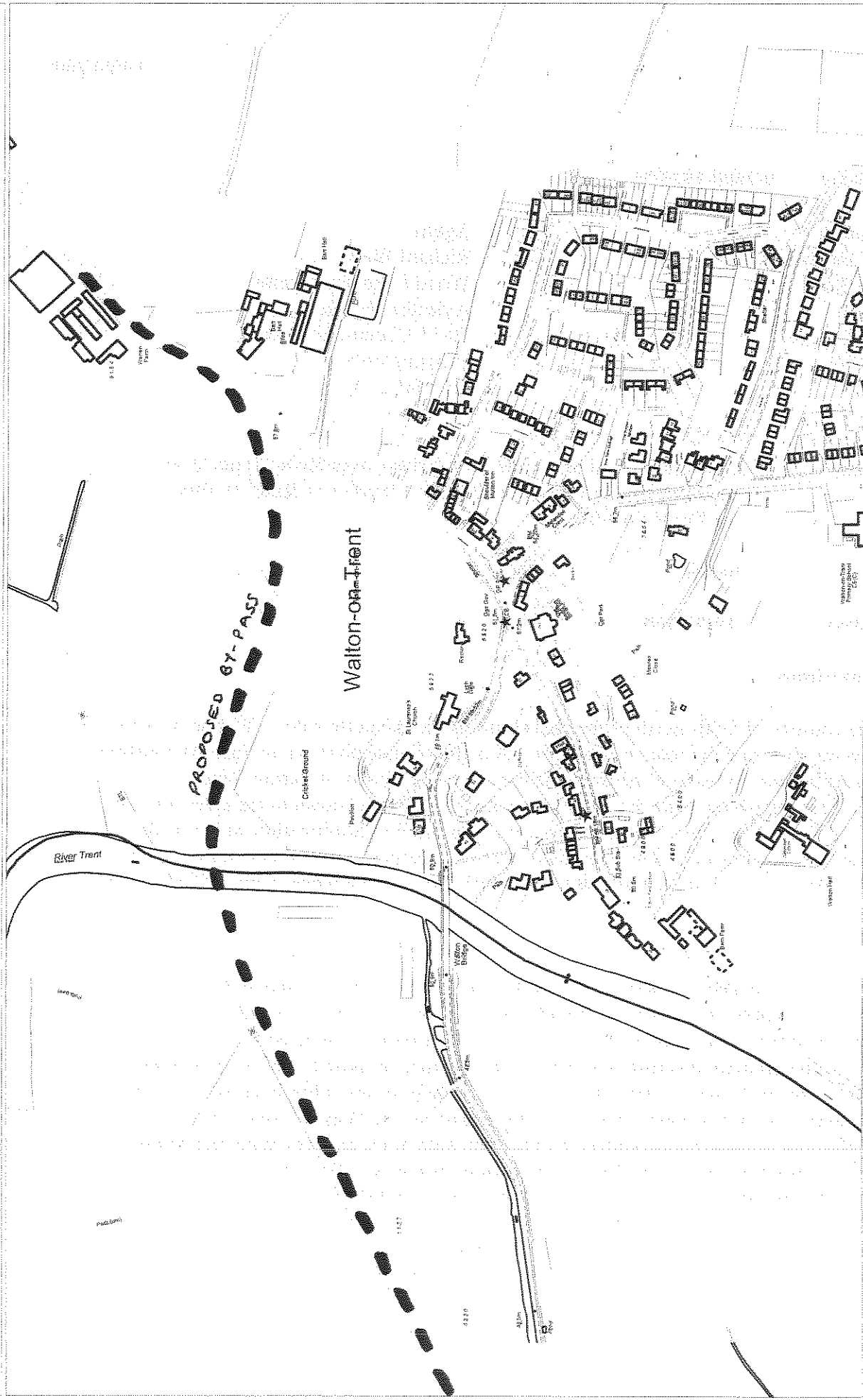
**Site Description**

The site consists of fields north of the cricket ground on the north side of Walton on Trent, between the river and the road to Drakelow. A companion application in East Staffordshire comprises the water meadows between the river and the railway at Barton Turns.

On the South Derbyshire side the land falls away from the road down to the river and forms a part of the Walton-on-Trent Conservation Area. On the East Staffordshire side it is flat. The fields are used for grazing. Specimen field trees are a feature of the South Derbyshire side and mature hedgerows with some trees on the Staffordshire side, including a line of riverside poplars.

**Proposal**

A public road is proposed linking the Drakelow road north of the village to Barton Turns, effectively by passing the eastern approach along Station Lane, which would be downgraded to the status of a pedestrian and cycle way. The road incorporates flood arches and a new river bridge. Compensating lowering of ground levels are also proposed so as not to compromise capacity of the flood plain to store flood water. This part of the scheme has been amended as a consequence of concerns being raised over the impact on the Walton Conservation Area and now would result in lowland wet grassland on the north side of the by-pass rather than close to the village and abandonment of reed beds as previously proposed. The originally submitted proposal incorporated a series of 14 flood arches concentrated on the western side of the bridge. The amended scheme disperses these across the flood plain with 3 arches on the eastern side adjacent to the cricket ground. These could be finished in a variety of ways to mitigate their impact. Some diversion of footpaths on the Staffordshire side would be required.



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## Applicants' supporting information

A comprehensive Environmental Statement accompanies the application and is available in full in the department. The main considerations/conclusions of which are:

- 75% of the applicant's 300 daily HGV movements use the A38 corridor and are constrained by poor accessibility via inadequate local roads, most particularly the bailey bridge at Walton and the Rosliston Road Stapenhill. There is a consequential need to improve access for HGVs bound to and from the factory
- Being a local solution to a local problem, there is no conflict with Regional, Strategic or Local Plan policies
- Alternative options presented are:
  - Do nothing/await the third Burton river crossing strategic route – discounted for perpetuating the current detrimental impacts and the uncertainty of the third crossing coming forward in a realistic time frame
  - Rebuild Walton Road bridge with necessary road widening in the village and bridge abutment improvements – discounted for the detrimental impact on Walton Conservation Area
  - Build a by pass around the east side of Walton – discounted for unacceptable intrusion and environmental impact
  - Build a by pass further to the north and west of the chosen route – discounted for unacceptable greater impact on the river valley, sterilising workable gravel, requiring more flood compensation and making access to the village more difficult for residents
- A very comprehensive transport assessment concludes that the road would not lead to diversion of through traffic onto the route but would reassign traffic from Walton village and HGVs through Stapenhill with benefit to both. Thus through traffic in the village would be reduced. The impact on the principle highway network would be largely neutral. Poor pedestrian/cycling provision on Station Lane would be alleviated and improved bus services connecting with the A38 directly would be facilitated. The relatively low increase in HGVs on Drakelow Road (average 10/hour – max 20/hour) would not impair safety on that road materially, particularly if signage were to be improved
- The applicants agree to secure the County Council's reasonable costs of enforcing the 7.5 tonne area weight limit
- Effects on air quality would be largely neutral but dust suppression during road construction is recommended
- A detailed archaeological investigation produced nothing of significance despite early indications to the contrary and the excavations uncovered no indications of structures
- Removal of traffic through the village would improve environmental conditions and marginally enhance attractiveness of facilities except for the cricket ground. The socio-economic impact is therefore likely to be neutral or moderately beneficial
- The ecology has been comprehensively surveyed indicating no receptors of greater than local interest and impact on these can be mitigated by design
- The scheme proposals include a comprehensive flood alleviation scheme calculated to have a negligible effect on Walton or the capacity of the flood plain. Careful design including forming a breach in the existing Station Lane causeway would mitigate the increased afflux (a measure of change in water level caused by building a structure on a river or flood plain) at the new bridge to the extent that upstream

- flooding would be neutralised and excavation of a compensating volume of material in the flood plain would also leave the impact on its capacity neutral
- A landscape assessment identifies the setting as Trent Valley wash land, the traditional rural edge of the village of Walton with listed buildings and a Conservation Area. Negative elements in the form of electricity pylons, power station cooling towers and the urban effects of the railway, road and industrial buildings along the A38 are detractors. The impact is illustrated in a series of wide-angle photomontages that show no significant change from St Lawrence's churchyard (250m away from the bridge and 180m from the road at its nearest point). The adverse impact on the rural character of the landscape is acknowledged with the principle element being the introduction of moving vehicles along the new road but no natural view points on public land are impaired. Mitigation in the form of new planting is proposed to replace lost and declining trees and to screen the road without interfering with views from and to the church. This would be subject to a detailed landscaping scheme to be submitted and would include hedgerow replace/reinforcement and parkland style planting. The relocation of the flood compensation scheme to the northern side of the by pass would decrease the impact of construction activity on the Conservation Area by removing any lowering of levels from within it
  - The proposal and the permitted forthcoming extraction of gravel from Tucklesholme Farm in East Staffordshire calls for complementary mitigation measures by which the cumulative effect may be effectively reduced
  - The interests of Walton Cricket Club would be protected by the provision of demountable netting to protect balls from landing on the by-pass and a sinking fund to cover replacement as discussed with the club
  - Wet grass land on the flood compensation areas is proposed in substitution of the reed beds so as to avoid fragmentation of reed beds and the necessity for other disturbance to the riverside such as sluices. Reinforcement/replacement of poplars and the provision of bat and bird boxes is proposed, all helping deliver the Staffordshire Biodiversity Action Plan.

The applicants conclude that the main issue arising from the application is whether the effect of the scheme on the setting of the Walton-on-Trent Conservation Area and St. Lawrence's Church, a Grade II listed building, is outweighed by the benefits arising from the scheme, primarily in terms of relieving Walton-on-Trent of traffic, particularly HGV's, generated by the business of Roger Bullivant Limited. The scheme would also relieve the village of other traffic travelling through the Drakelow area to join the A38 would make it possible to improve bus services via that route. The proposal would remove all extraneous traffic from the centre of Walton including A38 related HGV's travelling through the village and up to 5,000 vehicles per day currently using the Bailey bridge as a route into Burton from the A38. Furthermore, the proposals would result in a significant reduction in HGV movements using the predominantly residential route through Stapenhill. The effects on the cricket field would be ameliorated by the provision of demountable screens to prevent balls going onto the road.

The highway benefits would outweigh the effect on the setting of the Conservation Area and listed buildings. In regard to concerns about the proximity of the proposed by-pass to the setting of St. Lawrence's Church, the proposed bridge is 250m away from the church and, at its nearest point, the road is 180m away. The photomontage included in the original ES (Figure 14.20-Photomontage 3), taken looking north-east from St. Lawrence's churchyard, shows an insubstantial change in the view following construction of the road and maturity of

the landscaping. Whilst the bridge and road would be more evident in views from Walton-on-Trent Cricket Ground, both would be of a low profile and not result in an unacceptable change in the view. Neither location is a natural viewing point down the river valley in that they are not vantage points on public land, nor are they well and regularly used the year round. The effect of the proposal on St. Laurence's Church and the Conservation Area should be balanced against the existing situation where heavy traffic traverses the village along Main Street and light vehicles pass within less than 10m of St. Laurence's Church. The proposals would move traffic a little further away from Barr Hall and Barr Hall Barns and changes in views from these two groups of buildings would be mitigated by landscaping associated with the proposed road.

With regard to permanent impacts on visual amenity, the land, re-profiling and return of the site surface to pasture would result in no permanent impacts on visual amenity. The permanent impacts associated with the revised flood compensation proposals are less significant and result in a negligible impact for both landscape character and visual amenity. Revised flood compensation proposals would remove a significant area of change from areas close to the centre of the village and thereby reduce the perception of change to the setting of the village arising from the proposal. The change to the landscape to the north of Walton-on-Trent should be balanced with the removal of through traffic from the village in any assessment of the scheme on the setting of listed buildings and on the character and appearance of the Conservation Area. In the applicant's view the balance is a positive one.

A draft unilateral undertaking has been submitted, providing for £45,000 toward monitoring/policing of the weight restriction by the County Council.

### **Planning History**

There is no record of previous applications on the site.

### **Responses to Consultations**

Staffordshire County Council:

- Recognises that the proposal is finely balanced but that the benefits outweigh the negative impacts
- Raises no objection to the Scheme in principle subject to an archaeological investigation being carried out on their side of the river including field evaluation
- Provides its view on the basis that the scheme addresses existing local highway constraints without prejudice to its judgement on any future proposals for development at or in the vicinity of Drakelow Power Station.

The Highways Agency directs that any permission be subject to a condition requiring the signalisation of the railway bridge at the western end of the by-pass prior to its first use.

Derbyshire County Highway Authority concurs with the traffic analysis and considers that diversion of light vehicles onto this route is unlikely to happen because of the marginal benefits in time taken. However, attraction of HGV's into the weight restricted area could potentially arise. Therefore the Highway Authority wishes to see a S106 agreement entered into to provide for the costs of enforcing the weight limit, and commuted sums for the maintenance of the new and old bridges. Any subsequent comments will be reported at the committee.

Walton Parish Council (to be confirmed in writing) does not object to the principle of the proposal but would wish to see the road relocated approximately 100m northwards and other aspects of the design improved.

A final response has not been received but it is understood that the Environment Agency objects to the principle of development in the floodplain but regards the mitigation measures to be adequate, subject to details of the design being acceptable by amendment prior to the decision going out or as might be covered by conditions. In accordance with PPG25 the Local Planning Authority must judge whether the need for the development outweighs the established principle of preventing development in the floodplain.

Castle Gresley Parish Council does not object to the by-pass but wishes to see additional weight restrictions imposed to prevent HGVs from affecting the village.

Overseal Parish Council supports the application but is concerned about traffic discharging from the route on to the A444 and eventually through Overseal.

English Heritage comments that the road would have an effect on the Church and Walton Hall both Grade 2\* listed by impacting on their setting. This would adversely affect views to and from them and the design of the bridge and associated structures is bland and out of sympathy with the rural location, albeit that removal of traffic from the village would be a benefit.

English Nature objects to the lack of adequate habitat creation in the amended scheme.

Derbyshire Wildlife Trust objects because the proposed restoration of the gravel working to reedbeds would be compromised by reducing/fragmenting the planned area and opportunities for habitat formation have not been maximised. This might incorporate bat boxes, improved otter ledges, works to prevent cattle poaching the river banks, additional wetland creation including ponds and reedbeds, an otter holt and additional planting.

The National Forest is concerned about the loss of trees and hedgerows, the impact on local landscape character and avoiding prejudicing the construction of the third river crossing for Burton but is in broad agreement with the landscaping proposals. It suggests incorporating wet woodland, further planting of black poplars, additional hedgerow filling, proposals for future management particularly of the riverside poplars and advanced planting.

Network Rail has no objection.

The Cycling Touring Club objects because the proposal falls outside the emerging Local Plan and outside the Cycling Strategy and would prejudice cyclist's safety.

The British Horse Society asks for Station Road to be made into a multi user route, including for horse riders.

The Derbyshire County Archaeologist has no objections, agreeing with the findings of the study on behalf of the applicant but asks for a watching brief during the construction phase.

Mark Todd MP has concerns that the route is not optimal, having an adverse impact on the village, but acknowledges that it will relieve parts of it of traffic and assist with regenerating parts of the power station.



The Crime Prevention Officer comments that lighting should be provided at the main junction for road safety and community safety and to enable bus users to use the bus stop without fear.

### Responses to Publicity

Letters from Walton Residents Association, the Vicar, Walton Cricket Club, Burton Civic Society, St Modwen Developments Ltd and 20 households and a petition containing 82 signatories object to the proposal as originally submitted for the following reasons:

- The setting of the Conservation Area and listed buildings at the church and Barr Hall and in particular the adjacent large area of relatively flat agricultural land containing remains of earlier settlement would be detrimentally affected contrary to the Local Plan policies
- No provision for the proposal is made in strategic or regional plans but taken with proposals for redevelopment of Drakelow Power Station it is of regional significance, potentially prejudicing the more desirable third river crossing there
- Views from the village would be degraded
- Footpaths would be bisected and the necessary diversions and impingement of the road would make them less attractive to use
- The proposal would effectively dam the river increasing the risk of flooding of property
- Wild life, including birds, bats, plants and otters, has not been adequately evaluated and would be detrimentally affected by the creation of a species barrier
- The proposed reed beds would reflect noise into the village and become filled with rubbish
- Known archaeological remains would be destroyed
- The landscape would be severed by the road, across the grain, increasing visual intrusion and the proposed landscaping would emphasise rather than ameliorate the intrusion
- The cricket club and the safety of users would be adversely affected by increased flooding and liability for accidents from vehicles leaving the road and balls hit onto the road
- The proximity of the road would diminish enjoyment of traditional English village cricket matches and compromise the ground's security
- Noise, vibration, pollution and dust would be unacceptable from the increased heavy traffic, including from braking and changing gear on the by pass
- The existing highways are unsuitable for additional HGV's and insufficient account has been taken of quarry traffic, the affect on cyclists and the potential for additional infringement of the HGV weight restriction order. There would be increased through traffic on Drakelow Road and Main Street and more accidents on rural roads particularly Drakelow Road (5 deaths in 2 years). Barton Turns junction would no longer operate effectively as the development permitted there comes forward. Congestion at the new junction from the village onto the bypass would arise and the priority is wrong. The future redevelopment of Drakelow Power Station and permitted gravel extraction would worsen these problems
- Local amenities and facilities would be detrimentally affected including the facility for scholars to be bussed to secondary school at the LEA's expense and patients having further to go to reach the surgery at Barton
- There would be light pollution from necessary lighting on the new road junction
- Encroachment by itinerants and fly tipping would be encouraged on the closed section of Station Lane
- Taxpayers funds in reinstating the Bailey Bridge would be wasted
- Diversion of the new road northward, particularly to the south of Drakelow itself, is to be preferred with the bailey bridge remaining open. A connection between the A38 and

the A444 via Drakelow would be much cheaper than currently projected if a sensible route (suggested) were chosen

- The sole beneficiary would be the applicant at local people's expense

However, several of these letters support the principal of the by pass subject to modifications of the design or detailed routing.

Following the submission of amendments, a further 10 letters reiterate the objections above and raise the following additional points:

- The amended proposal would do away with proposals for desirable reed beds proposed in connection with water cleansing following gravel extraction and improving bio diversity
- Flooding would be diverted upstream
- There are no signs warning of HGV's approaching in the middle of the road around the blind bends at Drakelow
- The route to the north of Warren Farm is preferable with no connection to the village and the Bailey Bridge remaining open to all traffic
- No 1 Bells End Road already suffers impact damage from passing vehicles
- How would the HGV ban be enforced?
- How would it be safe for a new 7.3m wide road to be joined into the existing road which is 5.5m wide in places?
- The railway bridge is too narrow for more HGV's
- The proposal is contrary to the Emerging Local Plan with respect to preserving open spaces and views
- The lack of screen planting on the western side of the bridge would adverse effect the writer's property (one of the closest) and make it much noisier. Planting should therefore be increased
- Contrary to the applicant's contention the planting will not screen Argos from the village
- The traffic data is inadequate and the predictions erroneous with regard to the likely diversion of HGV's to the new road and policing is likely to be ineffectual
- The Cricket Club is said to remain unhappy with the proposal
- The proposal would compromise restoration of the proposed gravel pit
- Archaeology of local importance would be lost
- Dust and noise would adversely affect wildlife, particularly breeding
- Children walking to school on Station Lane would be unsafe because they would be isolated
- The sharp bend in the road near the village would encourage truckers and motor cyclist who would think they were driving a car

### Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 1, 2, 3 and 4

Transport Policies 1, 7, 9, 10, 12 and 13

Environment Policies 1, 4, 10, 12 and 14

Local Plan: Environmental Policies 1, 2, 9, 10, 11, 12, 13 and 14

Transport Policies 6, 7 and 8

Emerging Local Plan: Environment Policies 1, 2, 3, 5, 13, 14, 15, 18, 19 and 20

### Transport Policies 1, 3, 4 and 5

PPS7, PPG25 and RSS8, the emerging strategic policy overview for the area, broadly reflect the above policies from national and regional perspectives.

### Planning Considerations

The material considerations in determining this application are:

- Conformity with the Development Plan
- The need for the development
- Potential to serve further development at Drakelow
- Effect on proposals for a strategic route connecting the A38 and A444
- Whether the route chosen is the best in the circumstances
- Effect on the openness of the countryside and landscape character
- Effect on the Conservation Area and listed buildings
- Effect on flooding
- Effect on wildlife
- Effect on the amenities of local people
- Overall sustainability of the proposal

### Planning Assessment

Whilst proposals for new roads connecting development with the highway network are relatively commonplace, this proposal for a privately funded improvement to a classified highway remote from any development site is unprecedented. Therefore no policies apply specifically to it. However, there are numerous policies that do bear on the proposed development.

PPS7 promotes the following key principle:

New building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled; the Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all.

PPG25 requires that:

Built development in functional flood plains should be wholly exceptional and limited to essential transport and utilities infrastructure that has to be there. Such infrastructure should be designed and constructed so as to remain operational even at times of flood, to result in no net loss of flood plain storage, not to impede water flows and not to increase flood risk elsewhere.

The General Development Strategy Policies of the Structure Plan and RSS8 promote sustainable development, govern its scale, location and impact, conserve the environment and require that development in the countryside is appropriate and that its impact is minimised. Transport Policies seek to reduce the need to travel and divert freight to rail, encourage journeys by pedestrians and cyclists and promote road safety, economic development and alleviate environmental problems. Environment Policies seek to conserve landscape character, particularly that of the Trent River corridor, and the setting of Listed Buildings and Conservation Areas

Local and Emerging Local Plan Environment Policies seek to protect the countryside, landscape character, wild habitats and species and designated floodplains, trees and woodlands from harmful development, promote appropriate mitigation including planting in the National Forest and protect the setting of Listed Buildings, Conservation Areas and Archaeological sites from damage. They also deal with noise and other forms of pollution.

Key issues arising from these policies are the effect of the road on the setting of the listed buildings and the Conservation Area, on landscape character, flooding, wildlife and local amenity.

No specific reference is made in the Structure Plan or the emerging revised Local Plan to need for development in the countryside to be demonstrated. However, for the time being it is required by ENV1 of the Adopted Local Plan. The applicants propose the road to serve the existing needs of the business. On this basis it might more readily be accepted as desirable than necessary. However, there is a need to facilitate redevelopment at Drakelow Power Station and particularly land in the ownership of the applicants. Consultants employed both by the applicant and the Highways Agency have examined the highway issues associated with this extensively. Their conclusion is that, given relatively minor improvements, the proposal as it stands would be capable of serving redevelopment of the 38 Ha of additional land in the applicant's ownership at Drakelow. All the Highway Authorities accept this conclusion subject to further analysis as detailed proposals for redevelopment come forward. What would happen if the remainder of the power station were to come forward would need further traffic assessment. In these terms a case for need for the road is established.

So far as alternatives are concerned, proposals for the third river crossing south of Burton and a link to the A444 have been under consideration for some time and appear in the draft recommendations in a multi modal study on linkages between the East and West Midlands. No Government pronouncement on this has been forthcoming. In any event the recommendations would require the matter to be carried forward by the Local Highway Authorities. There is no such provision in any County strategic plan or indication of their commitment to doing so. A junction onto the A38 south of Branston is proposed in connection with development there but the access road would not bridge the railway or the river. In any event it is dependant on funding from the Development Agency on tight timescales that may not be met. Uncertainties are such that the Walton by pass could not reasonably be refused because it might frustrate the third river crossing, whose timing is at best longer term.

The only feasible alternative to the proposal as submitted is a route further to the north and west joining Drakelow Road north of Warren Farm. This would move the road further from Walton and overcome many of the objections from local people. Nevertheless, it would be appreciably longer and thus require appropriately greater flood compensation. Because the road would be longer and cross the flood plain at a more oblique angle the visual intrusion would be commensurately greater from more vantage points and it would also compromise gravel extraction, sterilising reserves. The view from the church would be hardly any less interrupted than by the proposed option. It would also require an appreciably longer doubling back to reach the village from the A38. Finally the cost would be significantly greater. Accordingly the applicant has discounted it. The option of leaving the Bailey Bridge open has not been addressed by the applicants who wish to make a feature of the removal of traffic from the village as part of the benefits of the proposal. This is clearly the case so far as Station Lane and its junction with Main Street is concerned.

The road would enter the Conservation Area where the boundary extends across open land to incorporate the outlying buildings at Warren Farm and Barr Hall. The land is pasture indistinguishable from other farm land hereabouts except that there may be several more field trees within it than normal. The effect would be on the openness of this undeveloped link between buildings of conservation interest. With the chosen alternative, the impact on the openness of the approach to Walton and on landscape character would be undeniable but not necessarily as great as perceived in anticipation by objectors. As proposed the design is modest, understated and mitigated as best possible by integration into the contours of the rising land. Nine field and hedgerow trees would be lost but a landscaping scheme plans to replace them and provide more. This issue requires to be balanced against the need for the development and also against the impending gravel extraction on the west side of the river and urbanising development in the background along the A38 and at Drakelow.

Similarly the proposal would harm the setting of the listed buildings: St Lawrence's Church and Barr Hall by introducing embankments, modern concrete/steel bridge structures, flood relief culverts, tarmac and traffic into the generally open flood plain and the sloping approach to the village, which is dominated on this side by the church on a high point close to the river. The road is designed to be sympathetic to the contours and from some viewpoints would be unobtrusive. However, it will be very apparent from both listed buildings and the cricket ground as well as from footpaths on the Staffordshire side. On the other hand, the proposal actually moves Drakelow Road further away from Barr Hall and landscaping should mitigate the effect to an acceptable degree. Removal of through traffic and signage from the road past the church would also mitigate the effect on the listed building. The new bridge would also provide novel vantage points from which to appreciate the church. These matters require to be balanced against the economic case of need.

The proposal has been engineered to the point of creating a neutral effect on flooding from the Trent. This fulfils the expectation of PPG25 in that regard. Given acceptance of the case for need, the proposal meets the policy.

No significant objection from responsible bodies on grounds of effect on wildlife or habitats, noise and air pollution amounts to a reason for refusal and mitigation by way of condition could answer most of those that have been voiced. The applicant suggests that reed beds would not work as previously suggested without significant lowering of ground levels and has abandoned the proposal as not practical or acceptable from a hydrological point of view.

The proposal would improve the circumstances of some residents so far as the impact of noise and fumes are concerned at the expense of others who would have the road on the rear side of their properties. Bus services could be improved by direct access to the A38 and subject to proper control of the 7.5 tonne weight limit there would be less through traffic in the village. The provision/maintenance of pedestrian/cyclist access across the Bailey Bridge would also improve local amenities. Diversion of the footpaths would make the route longer and less attractive for walkers. However, these footpaths would anyway be affected by gravel extraction for the lifetime of the scheme. The negative effect again requires to be balanced.

The final question to be decided is whether or not the proposal is sustainable. The Government has set out four aims for sustainable development in its strategy: A Better Quality of Life, a Strategy for Sustainable Development in the UK.. The four aims are:

- social progress which recognises the needs of everyone;
- effective protection of the environment;
- the prudent use of natural resources; and

- maintenance of high and stable levels of economic growth and employment.

Subject to the discussion above, the proposal would foster social progress by reducing traffic in the village and Stapenhill/ Burton and facilitating improved means of travel other than by car. It would also foster prudent use of resources by reducing the length of HGV journeys from the factory onto the A38 and it would assist in promoting economic growth through sustaining the viability of Roger Bullivant Ltd (improved accessibility) and the regeneration of their vacant land at the power station. On the other hand it is open to criticism for not protecting the environment and, if the case for need is denied, potentially for expending resources on unnecessary infrastructure.

In conclusion the merits of the application turn on the judgement of the desirability of improving the viability of the local economy through the existing business and regenerating brownfield land at Drakelow versus impact on the countryside, listed buildings and the Conservation Area. The converse of this is that a refusal would effectively prevent further development/redevelopment of the enterprise with an indefinite prospect of an alternative solution being found within a reasonable timescale. Given the mitigation proposed, the balance can reasonably be weighed in favour.

### Recommendation

That the Authority be minded to **GRANT** permission subject to the following conditions and the applicant entering an agreement under Section 106 of the Town and Country Planning Act to secure removal of any unnecessary signage in Walton and provide commuted sums for the policing of the 7.5T weight limit, the maintenance of the bridges (and any other reasonable requirements) subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. No development shall take place, until the developer has secured the implementation of a programme of archaeological inspection as work proceeds in accordance with a written specification which has been submitted to and approved by the Local Planning Authority in writing.  
Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.
3. Notwithstanding the particulars of the application, details of the finished appearance of the flood arches shall be submitted for approval in writing by the Local Planning Authority prior to commencement of building operations and the work shall be carried out accordingly.  
Reason: The submitted details are considered insufficiently detailed to enable a judgement to be made on their acceptability.
4. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 2011/B/36/C, 2011/b/68 and 2011b/88 and the indicative landscaping detail: 5.2

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

5. 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.

6. 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.

7. The development hereby permitted shall not be commenced unless and until a scheme for the signalisation of the railway bridge (Shown on drawing no 2011b/87), incorporating a priority control loop for east bound traffic and all necessary signage, has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highways Agency and the scheme shall be implemented accordingly prior to the opening of the by-pass to traffic.

Reason: To ensure that the A38 continues to serve its purpose as part of the national system of routes for through traffic by minimising the disruption to traffic on the trunk road from traffic entering and leaving it in the interests of highway safety.

8. A scheme shall be submitted for providing for the protection and diversification of wildlife in accordance with established biodiversity principles to the Local Planning Authority for approval prior to the commencement of development and prior to its first use the scheme shall be implemented to the satisfaction of the Local Planning Authority in conjunction with the Derbyshire Wildlife Trust.

Reason: In the interests of mitigating the effects of the development on biodiversity.

9. Any reasonable conditions recommended by the Environment Agency.

Reason: To prevent any increase in flooding.

10. Any reasonable conditions recommended by the County Highway Authority.

Reason: In the interests of highway safety.

19/04/2005

**Item 1.2****Reg. No.** 9/2005/0071/F**Applicant:**

Miss P G Scriven  
 Foston Hall  
 Foston  
 Derby  
 DE65 5DN

**Agent:**

Miss P G Scriven  
 Foston Hall  
 Foston  
 Derby  
 DE65 5DN

**Proposal:**

**The erection of a 16 place juvenile unit and car park at H M Prison Foston Hall Foston Derby**

**Ward:**

**North West**

**Valid Date:**

**19/01/2005**

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

**Site Description**

The site comprises an area of car park where the above building would be sited and an area of land on the south part of the site where the new car park is to be formed. Both sites are flat. The existing security fence follows the edge of the existing car park, along its east boundary. The other boundaries are open. The north and east boundary of the proposed car park are open and closely planted beech trees enclose the south boundary and the west boundary is a line of mature poplar trees. To the south of the proposed car park is a group of former prison service houses that are now in private ownership.

**Proposal**

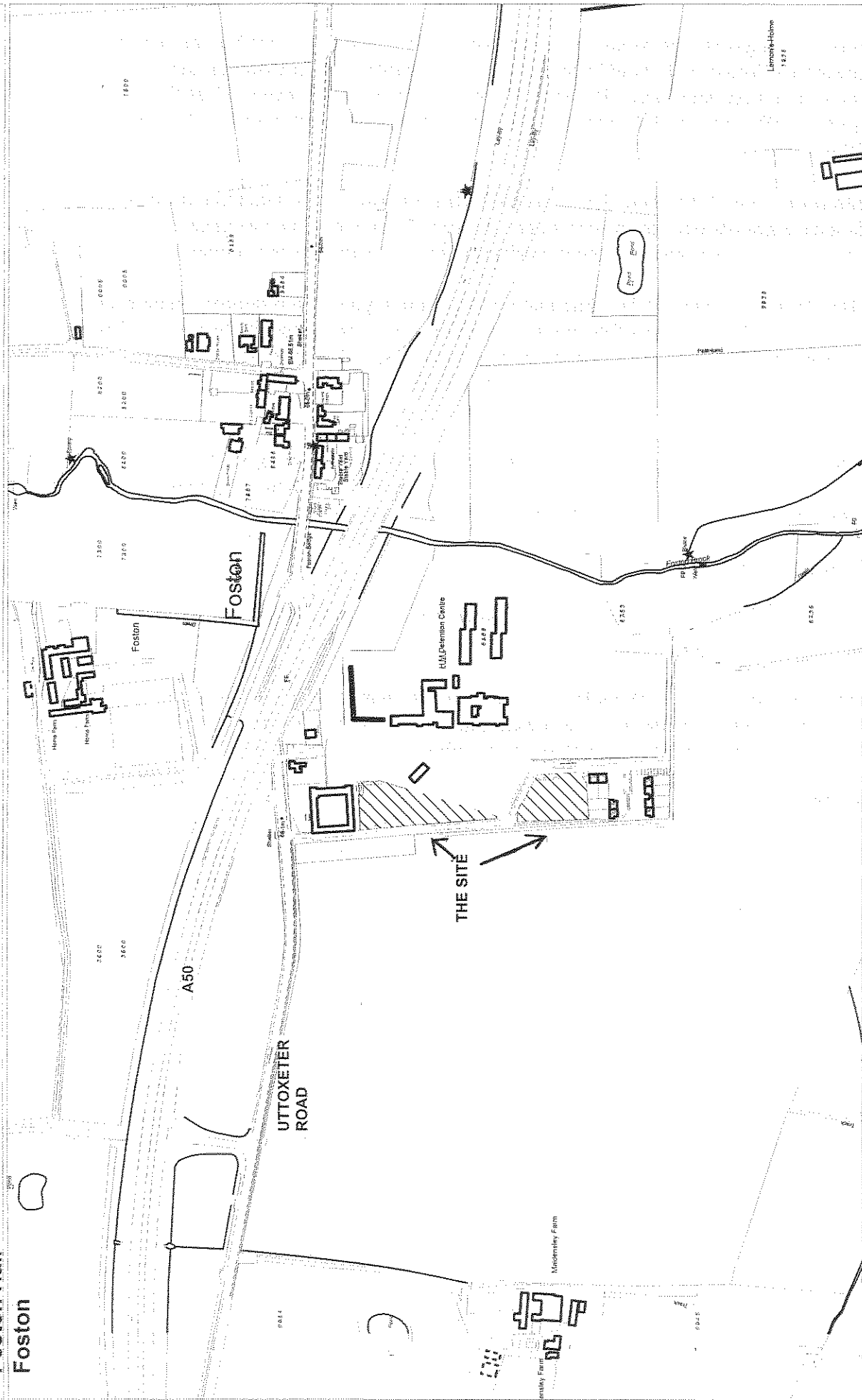
This is an application under Circular 18/84 for development a Government department intends to carry out itself. It is as described above but since submission the Governor has confirmed that the existing street light to the proposed car park would be replaced with lighting mounted on the proposed fence. She has also confirmed that the proposed fence would not reduce the width of the access road and that the fence that was proposed car park to the new car park will now be a native species hedge in accord with the wishes of the Council's Conservation and Historic Buildings Officer.

**Applicants' supporting information**

The application is accompanied by a statement of need that indicates that the structure is needed to provide for the requirements of the Criminal Justice system whereby it is necessary to segregate under 18's from the general prison population. It is intended that this 16-place unit would meet that need and allow young offenders to be assimilated back into the community.



9/2005/0071 HM Prison  
Foston Hall  
Foston



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CIVIC OFFICES  
CIVIC WAY  
SWADLINCOTE DE11 0AH



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Traditionally young prisoners would have been kept in local authority care but the new system would mean that Foston Hall would become one of five centres that provide the services young offenders need in their local area. Research has shown that the best chance of rehabilitation happens when offenders are dealt with in their local communities with access to family and Social Workers.

The Derbyshire Youth Offending Service supports the proposal. It is stated that the prison provides local employment opportunities and a range of work would be available if this submission was to be accepted. (A letter confirming this accompanies the application).

Foston Hall Prison is a historic building that benefits from regular, high standard maintenance by the prison service. Many areas of the house and gardens have been restored because of funds that have been generated by projects undertaken at the site, e.g. the restoration of the glasshouses. The provision of the juvenile unit would help to secure future investment at the site.

The site has been chosen as a result of discussions with the Local Planning Authority, the size has been reduced to help to minimise the impact on the adjacent listed hunting stables. The inner fence between the unit and the rest of the prison would be reduced in height, to secure segregation and the grounds would be landscaped. In addition fencing currently attached to the stables would be removed.

The site lies outside the flood plain and it is suggested that a flood risk assessment is not required.

The current wasteland next to Woodland Drive would be changed into a car park; the access road would be repaired and be better lit. It is argued that the approach to the houses would be enhanced by the location of the car park on these grounds.

### **Planning History**

Foston Hall Prison has operated for many years as part of the prison estate save for a few years in the mid 1990's. Since it was reintroduced as a prison, substantial development has taken place in the form of accommodation blocks, a kitchen extension, a remand unit and numerous works to repair the fabric of the building. Most recently an application to install a juvenile unit on the south east part of the site was objected to on the grounds that it would adversely affect the setting of the hall in a vulnerable area.

### **Responses to Consultations**

Foston and Scropton Parish Council objects on the grounds that the access to the A50 is substandard, the proposed car park would adversely affect the occupiers of the dwellings on Woodland Drive by virtue of its continuous use and the prison continues to expand despite assurances that it would not.

The Highways Agency has directed that a condition be appended to the permission requiring that no development take place in advance of the substantial completion of works to improve the access/egress to the A50. It is understood that these works should have started on 14 March for a period of up to 10 weeks.

The County Highway Authority has no comments.

The Historic Buildings and Conservation Officer notes that the erection of the building would have a detrimental impact on the setting of both of the listed buildings on the campus. However it is considered that this is the least damaging location and that the size of the building has been reduced to minimise the impact on the listed buildings. The reduction of fence height internally also helps minimise the impact. Provided that the application is amended to allow for hedges to enclose the car park rather than fences and the imposition of conditions to control the materials of construction, their colour, and the implementation of an approved landscaping scheme, the proposal is considered acceptable.

The Head of Environmental Health has no comment but requires a condition to prove that the land is not contaminated.

The Derbyshire Police Crime Prevention Design Adviser reports that there is concern that the internal fence should remain at its full height to maintain segregation. It is acknowledged that the prison wants to reduce the internal fence height to help with rehabilitation of offenders but reducing the height would take away flexibility.

Governor's Comment – This is a matter for prison service managers. The author appears to have misunderstood the rules relating to custodial setting. There is no need for a 5.2 metre fence between discrete sections of the prison. The remand unit is fenced in a similar manner and it has never been the intention that the fence should be any other than 2.6 metres high. It also helps to reduce the feeling of ghetto-isation of the various parts of the prison that can lead to bad behaviour. It is restated that the removal of the existing security fence would result in an improvement to the setting of the stable block. The site at Foston has been chosen to best meet the needs of the Criminal Justice Agencies.

The report further considers the proposed car park and expresses concern that the proposed fence may narrow the road width. The car park should be well lit, but prevent light pollution, protected by CCTV and the proposed landscaping should be such that the proper surveillance of the car park is not restricted.

*The Governor further comments that the new fence would not reduce the amount of open space between the access road and the open countryside it would remain the same. The Council's Historic Buildings Officer has requested that while the road should be well lit, the level of the lighting should not be obtrusive. Thus all existing lampposts would be removed and replaced with lights that are hung on the new fence. The fences around the car park would be replaced with hedges and provided with low-level low impact lights. The prisons CCTV control room would monitor the site.*

In a further response the Crime reduction officer agrees that the internal fence is a matter for the prison service. He requests that the attention of the Prison Service is brought to his recommendations on the provision of the car park. The design of the lighting of the car park and its environs can be the subject of a condition if the Committee is minded not to object to the proposals.

### **Responses to Publicity**

A joint letter signed by the occupants of 7 of the dwellings at Woodland Drive has been received objecting to the development for the following reasons:

- a) There would be a significant increase in the amount of traffic using Woodland Drive in the vicinity of the houses. The road bends sharply and there is a risk of accidents because of the proximity of the proposed entrance to the bend of the road. Staff speed out of the prison, it is very dangerous – there have been several near misses.
- b) Children currently play in safety but bringing cars and construction traffic closer to the houses will increase the risks to the children.
- c) The only reason the land for the car park appears as it does is because the contractors put heavy machinery and structures on the site when the last lot of development was undertaken.
- d) The condition of the road has deteriorated considerably when there was all the construction traffic on it. Not just next to the storage area but also further down the drive. It is not clear from the application how much of the Drive is to be re-done- it's not good just patching it up like the last time. More money is spent on the inside rather than the out.
- e) There are problems of getting to and from the houses when people park half on and half off the road. Sometimes people have to wait up to 25 minutes to get out of the road, making them late for work and school. The bin lorry could not get through and had to come back the next day.
- f) What is the use of having landscaping when there are no gardeners to look after the proposed shrubs and trees?
- g) The Poplar trees are rotting from the middle and are dangerous. They need to be cut down before they damage vehicles. These trees should not be retained.
- h) The path to the main road is not in good condition and is narrow. People have difficulty in using the path because of its condition and it should be repaired. It's not going to be wide enough
- i) The road floods and does not drain properly
- j) The loss in value to house prices is also of concern to all the residents.
- k) Residents have submitted photographs showing the problems they have identified in the above points.

In addition 2 other letters have been received objecting on some of the grounds referred to above but the additional comment is made that the road should be widened to allow cars to pass each other. A copy of a letter to the Governor has also been submitted setting out the resident's concerns about the impact the proposal would have on the existing houses.

The Governor has also written to the occupiers of the houses on Woodlands Drive explaining the proposals to them and a copy of that letter is available for inspection on the file. *The letter seeks to address the points raised by objectors' as set out above - no further correspondence has been received. This letter has not formed any part in the recommendation below and its receipt is reported for the information of the Committee.*

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Environment Policy 10

Local Plan: Environment Policy 13

Emerging Local Plan: Policy ENV 19

## Planning Considerations

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

- The Development Plan
- The impact on the Listed Buildings
- The access/traffic implications
- The need for landscaping

## Planning Assessment

The proposal is for a further expansion of a well-established facility. Provision is made in the Development Plan for the expansion of such activities provided that there are no adverse environmental or traffic implications.

As stated in the 'Planning History' a previous submission on the opposite side of the site was rejected on the grounds that it impacted adversely on the character and setting of the Grade II\* Foston Hall. Development had previously been allowed on the east side of the site on the grounds that it met a community need for prison accommodation and would not impact on the important south façade of the Hall.

Subsequent discussions between officers and the prison service have resulted in the submission of the current proposal. The proposal does still impact on the setting of the two listed buildings on the site but this proposal does preserve the setting of the most important south façade. In addition, the proposal is to be constructed out of demountable materials, thus if the site were no longer required by the prison service, removal of these temporary buildings would be achievable.

In weighing the impact on the listed building against the case for providing a local service to the young offenders, it is considered that the smaller scheme now proposed on the west side of the prison campus represents the least harmful option given the circumstances outlined in this report.

The Highways Agency has indicated that it would be concerned if the works were undertaken and the building occupied with the junction to the A50 in its current form. A proposal is in place to improve the junction and by the time the Committee meet; works should be underway in the first of a 10-week program. It is considered that the condition imposed by the Highways Agency would be reasonable and enforceable.

The onsite problems identified by the objectors have not found support from the County Highway Authority. The road, albeit narrow, would not be serving a significant number of new vehicles. The junction to the former Uttoxeter Road has good visibility.

The main concern of the residents is that the car parking and thus the cars are being brought much closer to their dwellings with an access point between the two bends in the drive. There are three properties directly affected by the car park, numbers 21, 27 & 28 refer. 27 & 28 have

rear gardens adjoining the site and 22 has its side boundary and flank running parallel to the car park boundary. The prison service has written to the residents since the application was submitted and confirmed that it intends to replace the footpath with a tarmac surface and resurface the road at least as far as the proposed car park entrance. However, the improvements to the road surface and footpath are not material to the determination of the proposal.

The beech trees on the north boundary of the site are likely to be vulnerable to root system damage if the car park is built. They are very shallow rooted and the proposal would involve the loss of about half the root system of the trees. The trees were clearly originally planted as a hedge so once one tree is removed, the rest would be even more vulnerable. The trees have been confirmed as being within the ownership of the prison service, some of the residents have erected fences behind the trees.

It is considered that the trees should be removed if Committee accepts the car park. The prison service has proposed that the tree be replaced with a new traditional thorn hedge. This should establish quickly once works are completed. It should also be possible to plant some appropriate trees within the hedge next to the houses to provide some additional screening.

The final comments of the Crime reduction officer are to be forwarded to the prison service for consideration but it is not considered that the comments form valid reasons for conditions other than a requirement to submit lighting details for consideration before the development is commenced. The comments may aid the design of the lighting scheme.

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**

**ADVISE** the prison service that South Derbyshire District Council has **no objection** to the proposals subject to the following conditions:

1. 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.

2. 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.

3. No part of the development shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the development hereby permitted.

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

4. The cladding of the new block shall be painted to a colour and specification (or precoloured), which shall have received the prior written approval of the Local Planning Authority.

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

5. No part of the development hereby permitted shall be commenced until precise details, including paving patterns; specifications and samples of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details before the occupation of the premises hereby permitted or in accordance with a program that has received the prior written approval of the Local Planning Authority.

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

6. No development within the application area shall be commenced until the junction improvement works have been substantially completed. (Substantially completed means in the opinion of the Highways Agency that the new junction performs the function for which it is intended and is complete except for minor items not affecting highway safety).

Reason: To ensure that a satisfactory safe access arrangement is provided for the duration of the operations on site and thereafter in perpetuity in order that the A50 Trunk Road will continue to fulfil its purpose as part of the national system of routes for through traffic in accordance with section 10(2) of the Highways Act 1980 and for the safety of road traffic.

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

1. A desktop study of the area of the proposed development.
2. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
3. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
4. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

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

8. The development shall not be commenced until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve the residential amenity of the occupiers of nearby dwellings.

### Informatives:

You are advised that Condition 6 is imposed at the direction of the Highways Agency. For the discharge of the site investigation condition above, as a minimum, the report should include:

- Details of an overview of the initial walkover survey to including the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- Detailed on site sampling to identify any contamination.
- The locations of any contaminated zones within the site including details of more extensive and geographically wider investigation of these zones. This will provide a more reliable picture of the distribution of contamination on the site and reduce the risk of failing to discover a hot spot of contamination.
- An assessment of any off site impacts such as the effect on watercourses etc.
- A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- Plan of action if further contamination is identified during remediation.
- Details of the measures to verify that the contaminant has been removed to an acceptable level.
- The identification as to whether a long-term monitoring and maintenance programme is required, if so, details of the plans.
- Details of the long and short term risk to human health including the construction phase and post-development.
- Details of the British Standards or other guidelines used in both the assessment and remediation measures proposed.

Further guidance can be obtained from the following:

CLR Guidance notes on Soil Guideline Values, DEFRA and EA  
 Sampling Strategies for Contaminated Land, CLR4 1994, DoE.  
 Model Procedures for the Management of Land Contamination CLR 11  
 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.



19/04/2005

**Item** 1.3  
**Reg. No.** 9/2005/0096/F

**Applicant:**  
Andrew David Hydes  
2 Chapel Lane  
Barrow On Trent  
Derby  
DE731HE

**Agent:**  
Andrew David Hydes  
2 Chapel Lane  
Barrow On Trent  
Derby  
DE737HE

**Proposal:** The erection of a storage building at 66 Twyford Road  
Barrow-on-Trent Derby

**Ward:** Stenson

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

The application is brought to Committee on the instruction of Councillor Mrs Renwick

#### **Site Description**

The site lies to the rear of Nos 60/64 Twyford Road and The Village Hall. It is used as a base for a tree cutting and grounds maintenance business.

#### **Proposal**

The application seeks to retain a building measuring 6.2 m x 9 m in plan and 4.3 m in height to the ridge. It is constructed in corrugated sheeting. The building has been reclaimed from another site and presently has an un-maintained appearance. The applicant has stated that it is his intention to paint the structure and to keep it in good condition.

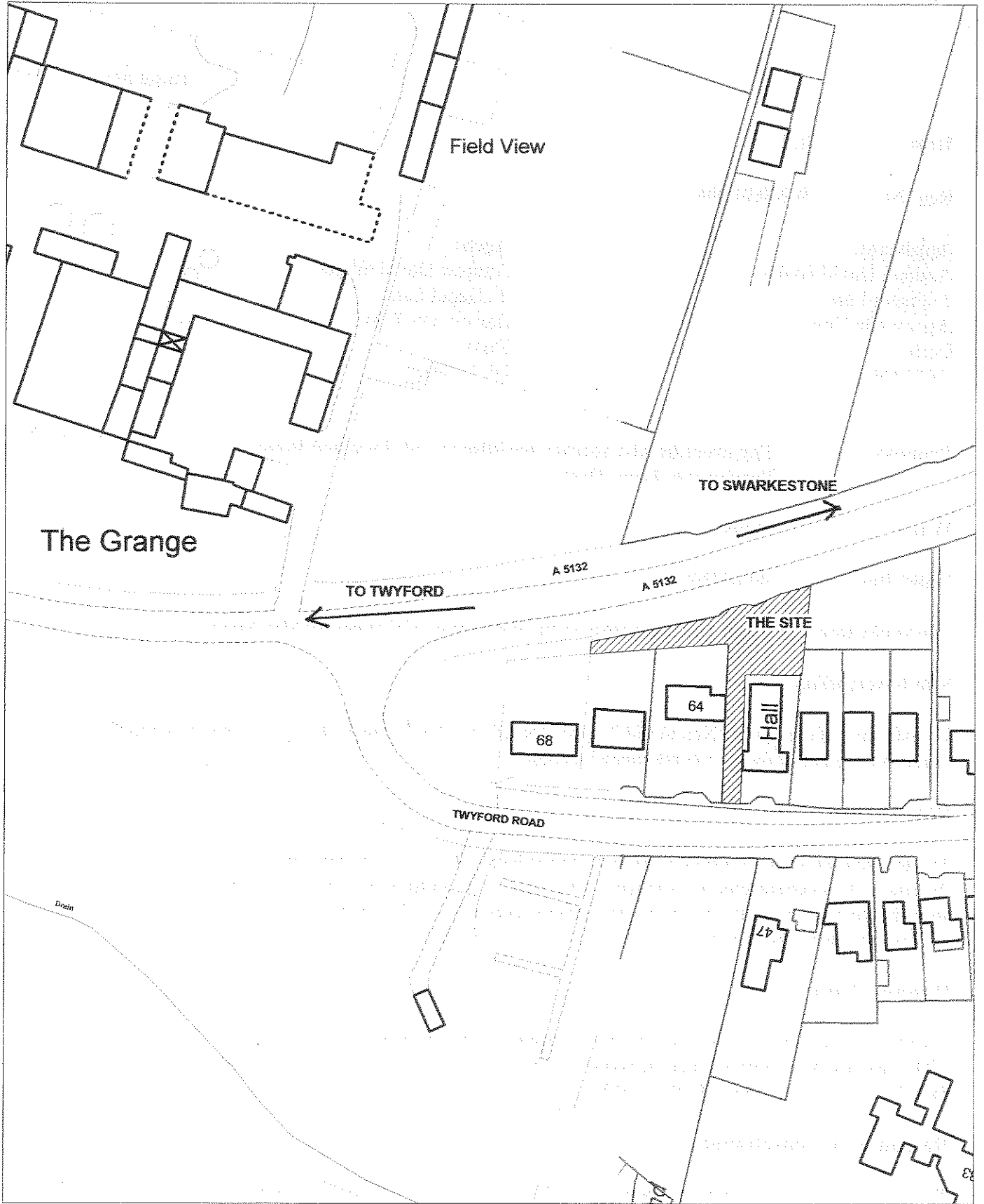
#### **Planning History**

A Certificate of Lawful Use was granted in respect of the existing business use on 27 November 2001, because the applicant had demonstrated that it had been carried on for a period of more than 10 years before then. (9/2001/1008/Z).

#### **Responses to Consultations**

The Environmental Protection Manager and Highway Authority have no objection.

The Conservation Officer does not object subject to the building being painted as proposed by the applicant.



**South Derbyshire  
 District Council**  
 Civic Offices  
 Civic Way  
 Swadlincote  
 DE11 1AA

**9/2005/0096 66 Twyford Road  
 Barrow-on-Trent**

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 South Derbyshire District Council

Date Plotted 7/4/2005

Plot centred at 428536 325343

NORTH ↑

Scale 1:1250

License No LA 079375

## Responses to Publicity

Five letters have been received raising the following objections:

- a) The application is retrospective.
- b) The building is too high and out of keeping with the area.
- c) The building is of inappropriate design and materials.
- d) The building is intrusive and overpowering.
- e) The existing use is too intense and causes noise and pollution to neighbours.
- f) The building would enable the use to become more intense, with associated increased noise.
- g) The fuel in the applicant's motorised equipment, and any stored fuel, could be a fire hazard, not least in respect of people using the village hall.
- h) Storage takes place outside the boundaries of the site.
- i) If boundary hedges were to be kept to an appropriate height the buildings would be more prominent.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Economy Policy 5

Local Plan: Employment Policy 5

Emerging Local Plan: Policies EMP2 & ENV21

## Planning Considerations

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

- The principle.
- Residential amenity.
- Impact on the conservation area.
- Highway safety

## Planning Assessment

The principle of the existing use of the site is established. As such there is no conflict with spatial policies.

The building is visible from neighbouring properties, in particular from No 64. However it is not excessively high (4.3 m) and is sufficiently far away from dwellings (about 10 m) so as to avoid undue overbearing or loss of light. Issues with regard to the impact of the existing use are not open for control because of the Certificate of Lawful Use. There is no evidence that the building would result in an intensification of activity.

Whilst the building is utilitarian in character it is well screened from public view, by existing boundary vegetation. Subject to conditions requiring it to be painted an appropriate colour, and a temporary time limit to enable any subsequent deterioration to be assessed, there would be no demonstrable harm to the character or appearance of the conservation area.

As there would be no intensification of use the proposal would not have highway safety implications.

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 building hereby permitted shall be used solely for purposes ancillary to the existing lawful use of the site as a base for a tree cutting/maintenance business.

Reason: For the avoidance of doubt and in the interest of residential amenity.

2. This permission shall be for a limited period only, expiring on 31 March 2010 on or before which date the structure shall be removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: In the interests of the appearance of the area, because the materials used in the construction of the building are likely to be subject to visual deterioration over time.

3. Within three months of the date of this permission the building shall be painted to a colour and specification that shall have previously been submitted to and approved in writing by the Local Planning Authority.

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

19/04/2005

**Item** 1.4**Reg. No.** 9/2005/0388/NM**Applicant:**

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

**Agent:**

Matthew Grant  
 Marcom APT  
 Technology Drive  
 Beeston  
 Nottingham  
 NG91LA

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

**Ward:** Etwall

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

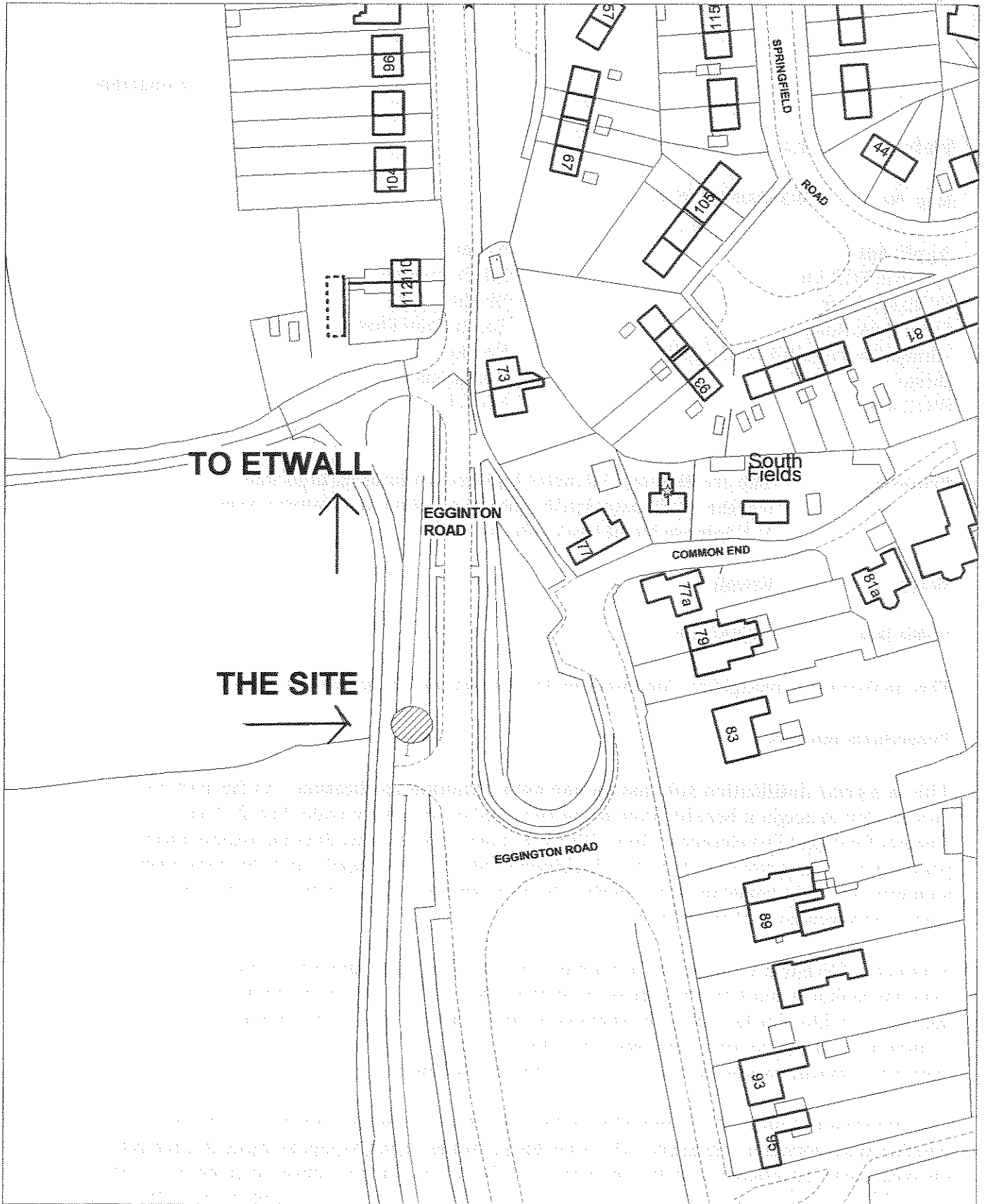
This application is brought to Committee on the instruction of Councillor Lemmon.

**Procedural matters**

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

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

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



**South Derbyshire  
 District Council**  
 Civic Offices  
 Civic Way  
 Swadlincote  
 DE11 3AU

**9/2005/0388 Egginton Road  
 Etwall**

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 South Derbyshire District Council

Date Plotted 7/4/2005

Plot centred at 428536 325343

NORTH ↑

Scale 1:1250

License No LA 079375

## Site Description

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

## Proposal

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

## Applicants' supporting information

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

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

Information accompanying the submission indicates that at 'the zone of greatest exposure' (93 metres from the mast) the level of emission is 0.12% of the ICNIRP limits. To show how the emissions degrade over distance the illustration in the document shows that at 50 metres the emissions are 0.11% at 100 metres 0.11% and at 200 metres 0.003% of the limits.

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

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

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

## Planning History

None

## Responses to Consultations

Etwell Parish Council has met to discuss the proposal and the views of the Council will be reported at the meeting.

## Responses to Publicity

At the time the report was prepared, 4 letters had been received objecting to the development. The objections are summarised as follows:

- The mast is not required – there is already excellent coverage in the village with Orange being the best. There is no need for the mast; it is only required to enhance a service whereas there was a case in 2000 where an inspector ruled that just enhancing a service was different from establishing a full macro cell and therefore not justified.
- Nobody in the immediate area has been consulted; the Parish Council was but did not notify residents in the locality.
- The micro-waves from the equipment are likely to be detrimental to public health, even the perception of risk can be a material consideration.
- The mast would be visually intrusive in a semi rural area.
- It would be too close to schools and hazardous to children's health especially the Jack Horner's Day Nursery to the South west
- It should be sited away from residential properties, the alternative sites have not been properly considered and the search does not seem exhaustive. Why should a site being close to a cycleway be a reason for discounting a site?

## Structure/Local Plan Policies

The relevant policies are:

Local Plan: Community and Facilities Policy 4

Emerging Local Plan: Policy C7

## Planning Considerations

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

- Visual intrusion
- No suitable alternative sites including mast sharing

## Planning Assessment

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



The applicants considered two alternative sites. The first was at the sewage works. The applicants could not gain access to the site and it had to be discounted. They also stated that this site would be close to the cycle way. However, this reason does not seem to be valid as the proposed site is next to a footpath. The second is the company's existing mast at Sandypits Lane that currently serves the village and its environs for 2G and below services.

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

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

If the Committee were minded to state that prior approval is necessary, then it would be necessary to ensure that a final decision is issued before 18 May 2005. If minded to withhold approval, then the reasons are limited to the siting and/or appearance within the constraints of the operational constraints of the system operators.

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

### **Recommendation**

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



19/04/2005

**Item** 2.1**Reg. No.** 9/2005/0226/F**Applicant:**

Mr Mrs Hodgkinson  
 71 Newhall Road  
 Linton  
 Swadlincote  
 Derbyshire  
 DE110BD

**Agent:**

D. Rutter  
 Architectural/Graphic Services  
 36 Main Street  
 Linton  
 Swadlincote  
 Derbyshire  
 DE12 6PZ

**Proposal:** Conversion of farm buildings into one dwelling at Brooklands Farm Shortheath Swadlincote

**Ward:** Seales

**Valid Date:** 24/02/2005

This application has been brought to Committee on the instruction of Councillor Hall.

**Site Description**

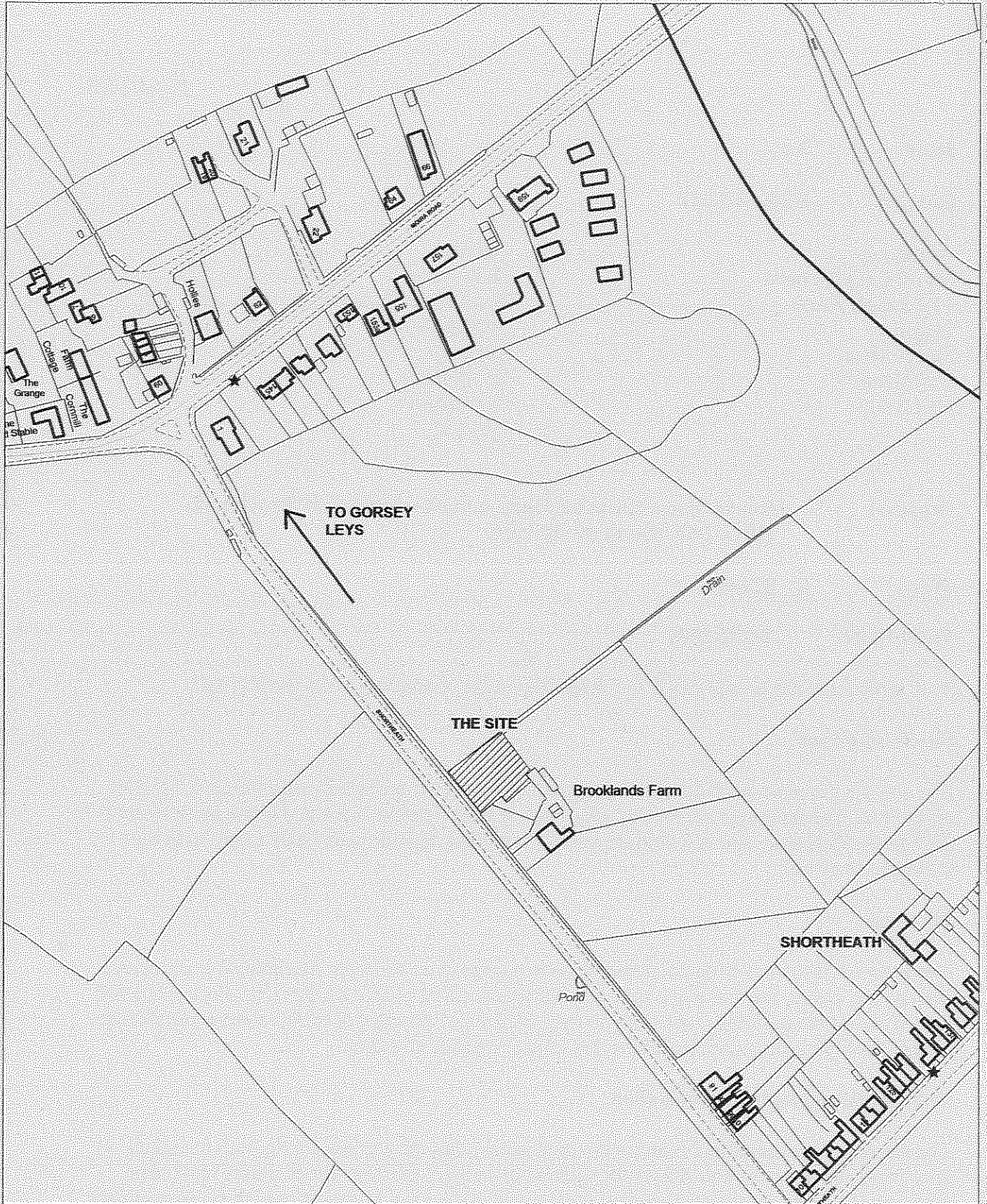
The site is a group of outbuildings of brick and tile construction, which were formerly used for agriculture. The buildings are located adjacent to a road. The site is located to the north west of the former farmhouse and is within the open countryside approximately half a mile from the village of Overseal.


**Proposal**

The proposal is to convert the outbuildings into a single four bedroom dwelling with a parking and turning area to the rear and a garden to the rear in place of an existing store/ stock shed. The conversion of the buildings would involve the creation of two new openings and the installation of nine rooflights altogether including five on the roadside elevation.

**Applicants' supporting information**

The Applicant has submitted information establishing that the buildings have been marketed to let as workshops, stores and offices for a period of over six months. The premises have been advertised to let by means of a board at the site and in the local press and only three expressions of interest were received. The interest was from people requiring stabling and associated land not for alternative uses for the existing buildings.



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

**9/2005/0226 Brooklands Farm  
 Shortheath**

Date Plotted 7/4/2005

NORTH ↑

Plot centred at 428536 325343

Scale 1:2500

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The Applicant's Agent has also submitted a letter making the following observations:-

- The Applicants family were the long term previous owners of the farm buildings and still own and occupy the adjacent house and garden.
- The agricultural holding is no longer a viable unit and the grazing land is rented out.
- The buildings which were used as agricultural stores and cowshed have been vacant for the past two years whilst the owners agents were trying to let them for small commercial purposes. The enclosed letter from the agents show the negative result of this exercise.
- It is proposed that, in order to protect the status of the buildings, which as a group, have occupied their position for over a hundred years, a change of use to residential would be appropriate.
- Other than to provide windows for emergency exits and the inclusion of conservation style rooflights, the external features will be changed very little and the internal layout has been designed to retain all existing roof and wall features.
- Domestic yard area will occupy the existing yard. The garden will be where the corrugated sheet barn stands at present and the brick boundary wall, approx 2.2m high will be retained to screen it from the public highway.
- Unfenced boundaries will have a post and rail stock proof fence.

### **Responses to Consultations**

The Environmental Protection Manager has no objections but recommends a condition requiring a contamination site investigation and associated remedial works.

The Environment Agency has no objections but has recommended that a bat survey is undertaken and recommends a condition requiring the submission of a scheme for foul drainage to a package treatment plant.

The Parish Council point out that the building is isolated and well outside the village envelope where development is normally allowed. However, if this fact does not prevent approval of the application, the Parish Council has no objection to the particular proposal and would support it.

The County Highway Authority has no objections.

### **Responses to Publicity**

None received.

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

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 1 and 4 and Housing Policy 6

Local Plan: Housing Policy 7.

Emerging Local Plan: Policy H1

### **Planning Considerations**

The main issues central to the determination of this application are whether national and local planning policies support residential re-use, having regard in particular to the principles of sustainable development.

## Planning Assessment

Structure Plan GDSP1 requires new development to respect the principles of sustainable development by, amongst other matters, minimising the overall need to travel, re-using land and buildings in preference to greenfield sites and protecting and improving the natural and built environment. Policy GDSP4 gives preference to business rather than housing re-use unless the building or location dictates otherwise. Further guidance on rural housing conversions is given in Structure Plan Housing Policy 6 which requires account to be taken of the need for employment uses in the area, the need for market and affordable housing and the impact of the conversion upon local economic activity. Government advice is contained within the recently published PPS7, this supports the re-use of appropriately located and suitably constructed buildings in the countryside where this would meet sustainable development objectives, re-use for economic development purposes is preferred.

The supporting text to Policy H1 of the RDDLP states that outside of the towns and serviced villages the Council will expect efforts to be made to secure a business re-use for commercial or agricultural buildings before considering a change of use to residential use. The reason for this is that business use can contribute to the local economy, sustain local services and provide employment for local people. Conversion to residential use does not aid sustainability, as the occupants are likely to have to rely on the private car for all journeys.

The general tenor of recent national and local planning policy is to support the re-use of buildings in the countryside for business or employment use in the first instance, only permitting residential re-use if conversion to some form of economic use proves not to be viable. Although the Applicant has carried out a limited marketing exercise it is considered that they have not explored all options for an economic re-use of the buildings including options such as a live/work unit. The site is located outside the defined village boundary for Overseal and in the open countryside where new residential development is inappropriate and unsustainable. The proposed development does not therefore comply with the provisions of Policy H1 of the Draft Local Plan. In addition there is no shortage of housing land supply within the Swadlincote sub area and therefore there is no need to grant planning permission for this site. To grant planning permission would be contrary to the provisions of Policy H1 and the advice contained in PPG3.

## Recommendation

**REFUSE** permission for the following reasons:

1. Insufficient information has been submitted with the application to rule out all options for an economic re-use of the buildings and therefore residential re-use in an unsustainable, open countryside setting is considered unacceptable and contrary to the advice of PPS7, and the provisions of General Development Strategy Policies 1 and 4 and Housing Policy 6 of the Joint Derby and Derbyshire Structure Plan and Policy H1 of the Revised Deposit Draft South Derbyshire Local Plan.
2. The site is not located within a serviced settlement and in the absence of a shortage in housing land supply in the Swadlincote sub-area there is no need to grant planning permission for this site. The proposal is contrary to the provisions Policy H1 of the Revised Deposit Draft South Derbyshire Local Plan and to the advice contained within PPG3.

19/04/2005

**Item** 2.2**Reg. No.** 9/2005/0315/O**Applicant:**

Miss E Bird & Mrs L Spare  
 Hillcot  
 Ingleby Road  
 Stanton By Bridge  
 Derbyshire  
 DE731HT

**Agent:**

Miss E Bird & Mrs L Spare  
 Hillcot  
 Ingleby Road  
 Stanton By Bridge  
 Derbyshire  
 DE731HT

**Proposal:** **Outline application (all matters to be reserved) for the erection of one dwelling on Land Adjoining The Brackens Wards Lane Stanton-by-bridge Derby**

**Ward:** **Repton**

**Valid Date:** **15/03/2005**

The application is brought to Committee on the instruction of Councillor Mrs Wheeler

**Site Description**

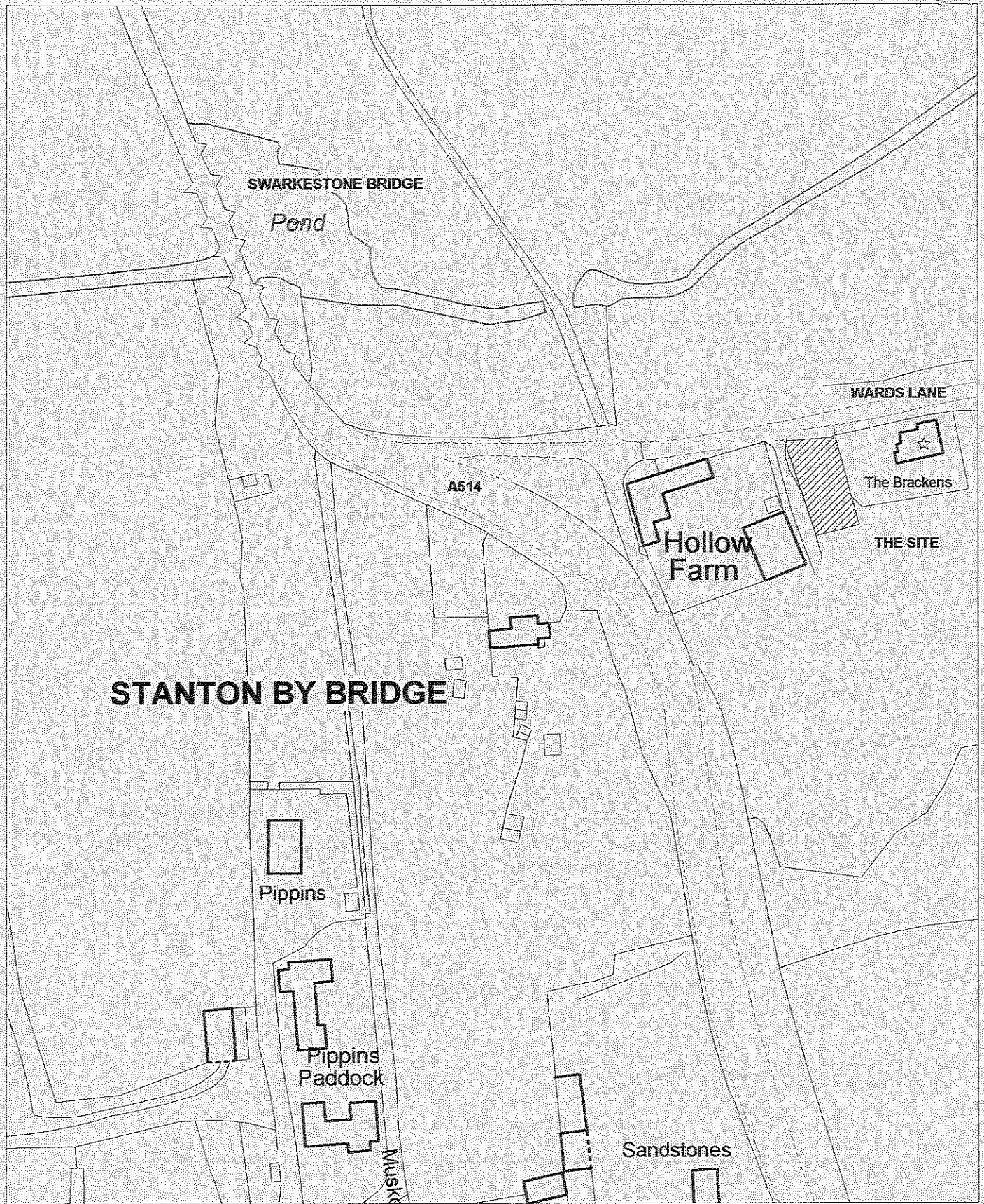
The site lies between two existing dwellings fronting Ward Lane, facing the flood meadows towards Swarkestone. Whilst the site lies within an area of old stone quarry workings its last known use is agriculture. It is presently covered with natural vegetation. The edge of the built up part of the village, as defined by the confine in the adopted local plan, is about 100 metres to the south west.

**Proposal**

The application is in outline and seeks permission for a single dwelling. The applicants own the adjacent dwelling known as the Brackens along with land adjoining the A514.

**Applicants' supporting information**

- a) Any building would be in tune with the surrounding environment and adjacent buildings. Materials and design would be in agreement with the Council.
- b) The buildings, including Hollow Farmhouse, are the oldest established in the village and are therefore within Stanton by Bridge.
- c) Communications are better than further along Wards Lane where changes have taken place to Stanton Barns Farm. The application site is close to the main road and has good access and visibility.



**South Derbyshire  
 District Council**  
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 Swadlincote  
 DE11 1AA

**9/2005/0315 The Brackens**  
**Wards Lane**  
**Stanton by Bridge**

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 South Derbyshire District Council

Date Plotted 7/4/2005

Plot centred at 428536 325343

NORTH ↑

Scale 1:1250

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## **Planning History**

Permission was refused in respect of an application for two dwellings on a larger site last year (9/2004/0382/O).

## **Responses to Consultations**

The Parish Meeting comments as follows:

- a) The refusal reasons in respect of the previous application are relevant, notably that the site would be outside the built up part of the village and result in increased use of private transport.
- b) It was not felt that the proposal would result in "a material increase in traffic using the substandard Wards Lane junction with the A514". This matter should be considered with the approval of the farmyard development at Stanton Barns Farm, Wards Lane, where three dwellings were allowed from converted farm buildings without reference to the junction. The meeting felt that the planning and highways authorities should be consistent on this matter.

The Highway Authority comments that previous applications for the conversion of outbuildings on land adjacent to Hollow Farm have been refused access from Wards Lane due to the increase in vehicular use of the substandard junction with the A514. However it was agreed that direct access onto the A514 would be acceptable. The Highway Authority would thus require further details, showing access and turning details for the dwelling being served directly from the A514.

The Environmental Protection Manager comments that a contaminated land appraisal would be required as the land was once used as a quarry.

## **Responses to Publicity**

Two objections have been received from the locality in the following terms:

- a) The site lies outside the limits of the village in open countryside with scattered farms and dwellings.
- b) The proposal would be in conflict with structure plan and local plan policy.
- c) In 1990 permission was refused for the conversion of a farm building adjacent to Hollow Farm on the grounds of harm to the character and appearance of the area. This reason would be applicable to the current proposal.
- d) The site is a disused farm. If it were accepted that the site is a disused quarry then it would be difficult to resist development on other former quarry sites in the village.
- e) The village is not a sustainable location for more development
- f) The site could be at risk of flood.

## **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 1 & 4 and Housing Policy 6

Local Plan: Environment Policy 1 and Housing Policy 8

Emerging Local Plan: Policies H1 & ENV21.

## Planning Considerations

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

- The principle.
- Visual impact.
- Highway safety.
- Residential amenity.
- Flood risk

## Planning Assessment

The site lies well outside the confine of the village as defined in the adopted Local Plan. The Emerging Local Plan in Policy H1 has sought to interpret the objectives of PPG3 by limiting development outside serviced villages to infill only. Infill is defined in Policy H1 as a gap in an otherwise built up frontage. Because the site sits between two isolated properties in the countryside the proposal does not meet this definition. Therefore the policies for development away from settlements apply to this site and the proposal does not satisfy the relevant tests of principle. Whilst there is a regular bus service through the village, it otherwise has few local facilities. The occupants of the proposed dwelling would thus be heavily reliant on the private car. Furthermore, using the tests of Annex C to PPG3, the site is greenfield. Development of the site would conflict with the objectives of that guidance and the sustainable development policies of the structure plan and emerging local plan.

In 2002 permission was granted on appeal for the development of land adjacent to Rose Cottage, Derby Road. In that case the Inspector considered the site to be infill, because it would be in between two properties within a line of dwellings. It was also immediately adjacent to the village confine defined in the adopted local plan. Neither circumstance is the case with the current application site. He accepted the development on greenfield land on the basis that the emerging local plan was at an early stage and had not been subject to public consultation or public inquiry. The Inspector's Report affirms the objective of Policy H1 to resist development on greenfield land and this factor thus has more weight in this instance.

Development of the site would consolidate the existing two properties and result in a more built up appearance to the locality to the detriment of the open character of this part of the countryside.

It is likely that safe access to the site could be provided. However the site boundary would need to be amended to include land with direct access to the A514. This would necessitate re-consultation and an assessment of impact on the character and appearance of the conservation area. As submitted the proposal would gain access from Wards Lane, which in the opinion of the Highway Authority is substandard for further development.

The conversion of the farm buildings at Stanton Barns Farm (9/0499/0012/F) was permitted on the basis that the reduction in traffic from the preceding farm activities would be commensurate with anticipated traffic flows from the conversion. Therefore there was a neutral impact in terms of highway safety. This does not mean that Wards Lane is suitable for more development and objection to its use is therefore consistent with past decisions.

The site is capable of accommodating a dwelling without causing demonstrable harm to the amenities of the occupiers of adjoining dwellings.

A very small part of the site, adjacent to Wards Lane, lies within the fringe of the Environment Agency's 1 in 100 year to 1 in 1000 year flood risk zone. It is highly unlikely that the dwelling would be sited in this area. As such the risk is negligible.

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

### **Recommendation**

**REFUSE** permission for the following reasons:

1. The proposal would not be infill and would result in a prominent visual intrusion into the countryside beyond the built up part of the village, not in keeping with its scale and character. Furthermore residential development at this site would lead to increased reliance on the private car for transport as Stanton by Bridge is not a serviced village, counter to the objectives of sustainable development. Therefore the proposal is contrary to the following development plan policies: Derby and Derbyshire Joint Structure Plan General Development Strategy Policies 1 & 4 and Housing Policy 6; South Derbyshire Local Plan Environment Policy 1 and Housing Policy 8; and Emerging Local Plan Policies ENV7, H1 & ENV21.
2. In the absence of details of access provision, the proposal would likely result in a material increase in traffic using the substandard Wards Lane junction with the A514 to the detriment of the interests of highway safety.

