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Date: 2 February 2015

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, on **Tuesday, 10 February 2015 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Conservative Group**

Councillor Ford (Chairman), Councillor Mrs. Brown (Vice-Chairman) and Councillors Bale, Mrs. Hall, Jones, Stanton and Watson.

Labour Group

Councillors Bell, Dunn, Pearson, Richards, Shepherd and Southerd.



AGENDA

Open to Public and Press

- 1** Apologies and to note any substitutes appointed for the Meeting.
 - 2** To note any declarations of interest arising from any items on the Agenda
 - 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
 - 4** To receive the Open Minutes of the Meeting held on 28.10.2014.
- Open Minutes **3 - 9**
- 5** REPORT OF THE HEAD OF COMMUNITY AND PLANNING SERVICES **10 - 86**

Exclusion of the Public and Press:

The Chairman may therefore move:-

That in accordance with Section 100 (A) of the Local Government Act 1972 the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.

- 6** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 7** To receive the Exempt Minutes of the Meeting held on 28.10.2014.
Exempt Minutes

PLANNING COMMITTEE

28th OCTOBER 2014

PRESENT:-

Conservative Group

Councillor Ford (Chairman), Councillor Mrs Brown (Vice Chairman) together with Councillors Mrs Hall, Jones, Stanton, Watson, Hood.

Labour Group

Councillors Bell, Dunn, Pearson, Richards, Shepherd, Southerd.

In attendance

Councillors Murray, Frost, Harrison, Hewlett

PL/87 **APOLOGIES**

The meeting was informed that apologies had been received from Councillor Bale. Councillor Mrs Hood substituted for him.

PL/88 **DECLARATIONS OF INTEREST**

Councillor Mrs Hall declared an interest in agenda item number 1.2 (9/2014/0431/SMD). Councillor Mrs Brown declared an interest in item number 2.1 (9/2014/0249/OM).

PL/89 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from members of the Council had been received.

MATTERS DELEGATED TO COMMITTEE

PL/90 **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

The Director of Community and Planning Services then submitted a report, dealing with several planning applications, for consideration and determination by the Committee.

PL/91 **THE ERECTION OF 66 DWELLINGS WITH ACCESS ON LAND AT KINGS NEWTON LANE, MELBOURNE, DERBY.**

At the suggestion of the Chairman, members agreed to consider this application first. The Committee was reminded that a site visit of the proposed development had taken place on the day.

The Principal Area Planning Officer explained that the application involved the construction of terraced, semi-detached houses on the site, as well as two flats. Thirty percent of this accommodation would be affordable housing. The report confirmed that the Highways Authority had no objections to the application, provided that proposed improvements to the junction were made. Severn Trent Water had also been consulted and again raised no objections, as long as a scheme was proposed that would provide a satisfactory means of drainage, in order to reduce the risk of creating or exacerbating flooding and to minimise the possibility of pollution.

Members were reminded that the National Planning Policy Framework requires that there should be a presumption that developments in sustainable locations, such as this, ought to be approved when Councils do not yet have a local plan, or a five year supply of building land for new housing,

The Committee heard from Jessica Long, the Chair of the Kings Newton Residents Association, who spoke against the application. She argued that the development would blur the village's separate identity from Melbourne and erode its rural and historic character. She raised concerns about the impact of the development on the local infrastructure, stating that that there had already been problems with sewerage capacity and that local schools were full. Ms Long also raised concerns about the impact of extra road traffic generated by the development and how this would exacerbate the traffic problems in Melbourne.

Following this, members heard from Nigel Hainsworth, the agent for the scheme. He argued that it had been drawn-up in consultation with Council officers to ensure that the design of the housing complemented the buildings in the neighbouring conservation area. He also reiterated the point that the Council does not yet have a Local Plan in place, or a five year supply of land for new housing, so therefore the application ought to be approved in line with the National Policy Planning Framework. He also explained that the developers had agreed to make a contribution to pay for additional classrooms and GP facilities.

Local members made it clear that they had concerns about the possible impact of the proposed development on both Kings Newton and Melbourne. There had been considerable growth in the area and, they argued, local communities needed time to adjust to this. They also referred to the recent comments from the planning minister that authorities were not obliged to accept all applications, even if they do not yet have a local plan - if they believe that the dis-benefits of a development would outweigh the benefits.

Members queried whether there would be grounds of rejecting the application in terms of national planning policy because it would make large scale development in the area a reality, regardless of whatever the plan might ultimately say about whether this should happen or not.

During the discussion, the officers pointed out that a similar argument had been used when the Committee had rejected an application for a development in the Linton area, which proportionately, had been bigger. This decision had, been overturned on appeal by the Planning Inspector, who had not accepted

the argument. Members were warned that if the Committee tried to reject the application on these grounds then this decision would also likely be overturned by the Planning Inspector, with potentially significant costs awarded against the authority.

At the conclusion of the discussion, there was a general feeling that the Committee had very little option other than to approve this recommendation, for the reasons outlined. Some members saw this as a consequence of Government policy, which had removed discretion from local councils who did not yet have a local plan in place, in terms of what developments they can and cannot approve

RESOLVED:-

That planning permission is granted subject to the conditions set out in the report by the Director of Community Planning and an additional and an amended condition reported verbally.

PL/92

THE ERECTION OF RESIDENTIAL DEVELOPMENT OF 64 UNITS WITH ACCESS PROVIDED OFF LAND AT VALLEY ROAD, OVERSEAL, SWADLINCOTE.

The Committee then turned to this application. Members were reminded that a site visit of the proposed development had taken place earlier in the day. It would consist of a combination of flats and 2 to 4 bedroomed houses. 19 of the dwellings would be classed as affordable homes. The access arrangements for the site were also explained to the Committee. It was confirmed that the Highways Authority had raised no objections to this.

Once again the Committee was reminded of the presumption to approve sustainable development in the absence of a local plan / five year housing supply. It was pointed out that a raft of Section 106 monies would be made available to help improve local facilities. This would include £30,000 to help fund sports projects.

The Committee heard from Lindsay Holmes, who spoke on behalf local residents opposed to the development. She argued that the extra housing would not benefit the local community, turning it into a dormitory suburb, that it would not be sustainable, given the lack of facilities and that the residents would have to drive to employment and for services etc.

The Committee then heard from Nigel Hainsworth, the agent for the application. He reiterated the points made in the report that Overseal was a key service village and a location for sustainable development; and that in this context the NPPF presumption in favour of development ought to apply. He also pointed out that funding would be provided for improvements, which would benefit local communities, including additional health care and educational capacity.

Local members made clear that they opposed strongly the application, pointing out that this was not a sustainable location, with no employment in the area and full schools. They were especially concerned that the traffic

conditions were already very bad and this would make it worse, especially on Lullington Road. They also argued that it would be practical to provide extra places at the school as the classes there were already full to capacity – the additional pupils could not just be slotted in. There was also concern that the suggested number of additional educational places needed might be too low.

The Committee discussed the application. During this discussion it became apparent that there was a lot of concern about the impact that the development would have on traffic in the area. In particular, there was concern that the number of cars associated with the development would be far higher than that suggested. It was noted that the Highway Authority had raised no objections to the proposed access, but there was concern that this assessment may not be correct and so needed to be looked at again.

Members felt that the potential impact on traffic and road safety in the area of the proposed development was a critical issue, but as things stood they did not have enough information in order to make an informed decision. Similarly, members felt that further information was needed to clarify what would be required to meet the likely demand for additional educational spaces.

RESOLVED:-

That determination of the application be deferred in order to allow a further assessment by the Highway Authority of the traffic implications of the proposals to take place and for the required education contributions to be determined.

PL/93

THE DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF A NEW RESIDENTIAL DEVELOPMENT, 47-51 ALEXANDRA ROAD, SWADLINCOTE

The Committee then considered an application to demolish this building in order to allow the development of 12 houses. The principle of development on the site had been agreed in 2011, however, because of the deterioration the applicant no longer viewed it as practical to use the existing building frontage, so the plans had now been changed for it to be demolished. Although this was an Edwardian building in the conservation area, the professional assessment was that its demolition would not have a significant impact, given the deterioration to the structure.

Members heard from the agent for the site, Janet Hodson, who explained the benefits of the development and what would be involved etc.

There was a general agreement that although for the loss of this old building was regrettable; this would be a good development which ought to be supported.

RESOLVED:-

That planning permission is granted, subject to the conditions set out in the report by the Director of Community & Planning Services.

PL/94 **OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT AT 124 REPTON ROAD, HARTSHORNE, SWADLINCOTE.**

The Committee then considered an outline application to build up to five dwellings arranged parallel to Repton Road. Members were reminded that the site of the proposed development had been visited by the Committee earlier in the day. The site currently has an existing planning permission to build up to five holiday cottages, but these would be permanent structures.

The Committee heard from Janet Hodson, who reminded members that the site currently has an existing planning permission to build up to five holiday cottages. This application, she stated, covered a smaller area than the original application. She also argued that given the earlier planning permission, this was no longer a green field site and that the level of development was appropriate for what could be expected for a village of that size.

Concern was raised by local members that this development was on land that lay outside of the Hartshorne boundary and that it was not in a sustainable location. Because of the likely cost of the properties, they were unlikely to be affordable for local residents. It was argued that this would, in effect, be a 'ribbon' development along the line of the road, which the Committee had normally opposed.

RESOLVED:-

That planning permission is rejected against the officer recommendations as it would involve a ribbon development, contrary to planning policies H8 and EV1.

PL/95 **SUSPENSION OF STANDING ORDERS**

Resolved:-

That Standing Orders be suspended and that the meeting of the Committee continue beyond 8.30pm

PL/96 **OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF UP TO 300 DWELLINGS, NEW HOUSE FARM, ETWALL ROAD, MICKLEOVER.**

Members were reminded that the site of the proposed development had been visited earlier in the day. Briefly, the Committee heard that this application was on land near Mickleover, immediately adjacent to the District's administrative boundary with the City of Derby. This was an application for outline planning permission for the residential development of up to 300 dwellings. As part of this, the application detailed road junction plans had been drawn up for vehicular access to the site from the A516 Mickleover By-Pass, which would involve the installation of traffic controls on the road and a reduction of the speed limit from 70 to 50mph at the junction. It was confirmed that the Highway Authority had objected to this as unsuitable.

Members were informed that at a late stage a revised traffic access plan had been drawn up by the Developer, involving the creation of a roundabout. This

revised plan was indicative at this stage and extra work and consultation would be required with the relevant parties before it could be finalised. The Highway Authority had advised that the roundabout was unacceptable in its original form.

The Committee heard from Richard Wain the agent for application, who spoke in favour. He explained that the only issue which needed to be resolved in the light of the Highway Authority's comments was access. He recognised that work needs to take place to finalise this and for that reason called on the Committee to defer determination of the application until December in order to allow this extra work to take place.

The Committee also heard from John Keith who spoke on behalf of local residents opposed to the application. He highlighted the problems associated with the junction. He also argued that the development would predetermine the local plan, for both South Derbyshire and the neighbouring City of Derby on the grounds that, if approved, it would open the door for other major developments, regardless of what the plans might say.

Members then discussed the application. The general consensus was that the original traffic access scheme was unacceptable. It was also felt that given the extra work that would have to take place, there was no guarantee that a revised access scheme would be ready for December. Members felt, therefore, that it would better for them to resubmit the application in its entirety, when all the details had been worked out.

RESOLVED:-

That planning permission is refused in line with the recommendation.

PL/97 **THE CONSTRUCTION OF 26 HOUSES AND 26 APARTMENTS ETC AT WOODVILLE**

The Committee considered this application and the specific proposals involved

RESOLVED:-

That planning permission is approved, subject to the conditions set out in the report from the Director of Community & Planning Services.

PL/98 **ERECTION OF A DWELLING WITH AN ATTACHED GARAGE, BRIDGE BARN, SWARKESTONE**

The Committee considered this application and the specific proposals involved.

RESOLVED:-

That planning permission is approved, subject to the conditions set out in the report from the Director of Community & Planning Services.

PL/99 **TREE PRESERVATION ORDER, ASHBY ROAD, MELBOURNE**

The members considered the details of this tree preservation order.

RESOLVED:-

That the Tree Preservation Order be confirmed.

LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT [ACCESS TO INFORMATION] ACT 1985)

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

PL/100 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions from members of the Council had been received.

PL/101 **ENFORCEMENT ACTION – COTON IN THE ELMS**

The Committee considered the details involved on this issue.

RESOLVED:-

That the recommendations be approved.

M. FORD

CHAIRMAN

The meeting terminated at 8:50pm.

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications

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

1. PLANNING APPLICATIONS

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

Reference	Item	Place	Ward	Page
CW9/2011/0002	1.1	Foston	Hilton	1
9/2014/0090	1.2	Overseal	Seales	7
9/2014/1126	1.3	Overseal	Seales	23
9/2014/0629	1.4	Swadlincote	Swadlincote	35
9/2014/1049	1.5	Etwall	Etwall	39
9/2014/1054	1.6	Coton	Seales	46
9/2014/1184	1.7	Ticknall	Repton	53
9/2014/0646	2.1	Hatton	Hatton	61

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

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

Item 1.1

Reg. No. CW9/2011/0002/CW

Applicant:
Midland Pig Producers LTD

Agent:
Naomi Light
Fisher German LLP
The Grange
80 Tamworth Road
Ashby De La Zouch
Leicester
LE65 2BW

Proposal: PROPOSED ERECTION OF A 2,500 BREEDING SOW PIG REARING UNIT WITH GRAIN STORE, FEED MILL, FEED HOPPERS, MESS BLOCK, WATER TREATMENT BUILDINGS TOGETHER WITH STORAGE BUILDINGS FEEDING AN ASSOCIATED ANAEROBIC DIGESTION FACILITY, SERVICE BUILDING, DIGESTATE AND METHANE GAS STORAGE TANKS SUPPLYING AN ELECTRICITY GENERATION FACILITY AND INCORPORATING A VISITOR CENTRE, 4 AGRICULTURE WORKERS DWELLINGS AND GARAGING, STRATEGIC LANDSCAPING, INCLUDING THE FORMATION OF BUNDS, A SURFACE WATER ATTENUATION POND, AND RAINWATER RETENTION AREA WITH SITE PARKING FACILITIES, WEIGHBRIDGES, SECURITY FENCING AND ASSOCIATED INFRASTRUCTURE UNDER DCC CW9/0311/174 AT LAND OFF UTTOXETER ROAD FOSTON

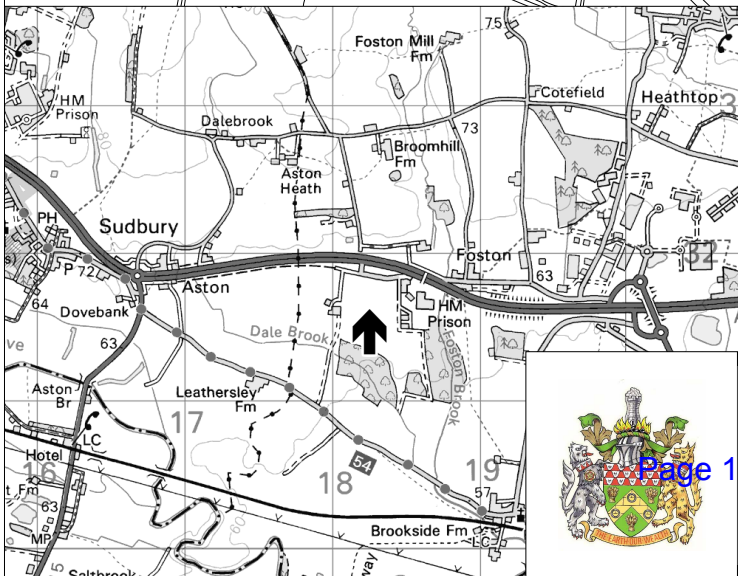
Ward: HILTON

Valid Date: 08/04/2011

This report considers additional Information received from the applicant in respect of the development. Members will recall that the Council has previously objected to this proposal.

The applicants have recently updated many aspects of the submission they made to the County Council in March 2011, including, in particular, providing a consolidated version of previous environmental information within a new single environmental statement which sets out the likely significant effects of development.

CW9/0311/174 - Land off Uttoxeter Road, Foston, Derby (DE65 5DL)



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South Derbyshire District Council. LA 100019461. 2010

The resubmitted Environmental Statement also includes details of a number of design changes to the project including:

- Underground digestion units have been increased from 10 single digesters to 10 double digesters
- The odour control unit for the service building has been revised
- The CHP units and flare stack have moved slightly to the west to aid access into the site
- The biogas holder has been resited and is now located centrally between the digester tanks
- The blending unit and nitrogen storage and take off is now located within the service building together with a centrifuge/separator for both the phase 1 and phase 2 development.
- A new control shed is proposed adjacent to the digesters
- An acid dosing tank has been included within the tank farm and tanks resited for access
- A liqueur treatment plant has been extended to include phase two requirements.

Planning Policy

Since Members first considered this proposal there have been significant changes to National and Local Policy which will be briefly summarised below.

The National Planning Policy Framework (NPPF) (introduced in March 2012) sets out the government's planning policies for England and how they should be applied. It does not, however, include any specific policies regarding waste.

The NPPF includes a presumption in favour of sustainable development. However it does not change the statutory basis of the development plan for determining planning applications. The NPPF includes policies to build a strong competitive economy, requiring good design; promote healthy communities; meeting the challenges of climate change, flooding and coastal change; conserving and enhancing the natural environment and conserving and enhancing the historic environment and facilitating the sustainable use of minerals. Of particular note, however is section 3 of the NPPF which seeks to support a prosperous rural economy by supporting the sustainable growth and expansion of all types of business and enterprise in rural areas and promoting the development and diversification of agricultural and land based rural businesses.

This policy is supplemented by additional guidance included in National Planning Policy Guidance (NPPG). This includes guidance on issues such as conserving and enhancing the historic and natural environment, noise renewable and low carbon energy and health and wellbeing.

In addition to changes in National policy and guidance since the planning application was first submitted to Derbyshire County Council it is also worth noting that the South Derbyshire Part 1 Local Plan was submitted to the Secretary of State for Examination in August 2014. This plan does not currently include a farm or rural diversification policy. However it includes policies regarding amenity and environmental quality, sustainable energy and power generation and, the protection of heritage Assets, biodiversity protection and conserving landscape character and local distinctiveness. However this plan has yet to be adopted and as such whilst they could be material in coming to a view about the acceptability of any scheme they should only be assigned limited weight in coming to any view regarding the appropriateness of any scheme.

Notwithstanding the above it is worth noting that the 1998 South Derbyshire Local plan continues to form part of the development plan for the area. As such Environment, Housing and Employment policies within the Adopted Plan referenced in previous reports to members (dated 01/11/2011 and 25/06/2013) remain relevant in assessing the acceptability of the proposed scheme, although members also need to be mindful of changes to national planning policy and guidance and emerging local policy in considering the scheme and its changes.

Landscape and Visual Impact

Members may recall that the Council has previously objected to the proposal owing to the scale of this scheme which is a combined industrial/agricultural development which would be overbearing and dominate the landscape and would, in the view of the Council, have a significant detrimental impact on the countryside and would not comply with Environment Policies 1 and 5 of the Adopted South Derbyshire Local Plan. Moreover the Council has previously objected to the proposal on the grounds of its likely impact on Foston Hall and its setting (Environment Policy 13) a Grade II listed building.

Having reviewed both the amended development scheme (to take account the design changes listed on the previous page) and the revised Landscape and Visual Impact Assessment (LVIA) included in the updated SLR Environmental Statement (ES) the Council's previous principled concerns (summarised above) will have not have been overcome by the additional/resubmitted environmental information and the design changes to the project. The scheme, as amended will occupy the same footprint as previously reported and a comparison of the scheme now proposed and the earlier site layout indicates that the substantive elements of the project remain as previously considered by members.

As previously noted, however, the LVIA undertaken by the applicants has been reworked and updated to reflect the most up to date guidance on undertaking such assessments and given that the Council has previously objected to the proposal on landscape and visual impact ground in the interests of balance, it is worth briefly reporting that the updated ES reaffirms the conclusions of the previous assessment. In particular that the most notable effects would be in respect of localised visual impacts

on Foston Prison and residences on Woodlands Drive and Maidensley Farm. Like the previous assessment the updated LVIA concludes that in year 0 the development would have a moderate to major adverse effect, which through appropriate landscaping would be reduced by year 15 to a minor to moderate adverse impact.

Environmental Effects

In respect of odour the environmental information included in the updated ES has been updated and additional information regarding the air quality impacts from the development documented. The updated document also considers the elements of the scheme likely to affect air quality (including odour and bio aerosols) and concludes that no significant adverse effects are likely from the development scheme subject to the operational; management and designed in mitigation proposed within the ES.

As a result of the updated environmental information included in the ES Public Health England (formerly the Health Protection Authority) has advised the Environment Agency (the permitting authority) that:

“the applicant has identified that emissions of bio aerosols may occur from a number of sources in the proposed installation. Mitigation is proposed through a combination of working practices as well as control measures and abatement fitted to point source emissions to the atmosphere. Provided that these can be installed and operated to the standards suggested in the application, then any potential for bio aerosol emissions from the biofilters themselves can be mitigated and that a satisfactory arrangement for the controlled transfer of waste material from the piggery to the AD facility exists, the bio aerosol risk from the installation should be low because sources of emissions will be enclosed and emissions will be subject to abatement”.

This represents a notable shift in the response which was previously reported to members in November 2011. At this point the Health Protection Agency stated:

“that the application does not provide detailed analysis or risk assessment of potential point source and fugitive emissions to air of odour, particulate matter, ammonia bio aerosols or emissions from the proposed CHP plant....Since this information is not included within the Environmental Impact Assessment, we are not able to provide any further comment, as there is insufficient information upon which to base an opinion”.

Despite the more favourable response from Public Health England it is worth noting that the time of writing the Environment Agency has yet to issue a permit for the proposed scheme. However in assessing the application the NPPF warns against duplication of the planning and permitting regimes and also highlights that operational issues (such as management procedures) are a matter for permitting and within the planning process consultees must assume that the permitting regime will be effective. Should a permit subsequently be issued therefore, it is not for the authority to revisit issues considered within that process.

Nonetheless, this Council's previous objection centred on the anxieties concerning public safety within the wider community, which as previously considered, can be a material consideration in determining planning applications. Additional information included in the ES may notably diminish the weight that that can be afforded this issue, as the detailed consideration of the likely effects of development have helped clarify the extent to which local communities could be affected. However, it may still be the case that residents will feel anxious about a development of this nature and scale and will be concerned about the health effects of such a development should it fail to perform as expected, for example, if any aspect of the plant fails, or any form of crisis occurs on the site as outlined in the Crisis Management Plan (CMP).

Members may also recall that they previously expressed concerns regarding the crisis management plan (CMP) submitted as part of the application. The crisis management plan has been updated and addresses many of the concerns previously raised. In particular it includes a section on access to HMP Foston Hall Prison. The CMP indicates that should an outbreak of a disease such as Foot and Mouth Disease occur restrictions would normally be placed on the infected premises in particular restricting movement on and off these premises. A second outer control zone or Protection Zone is likely to be placed around the site which may include the prison. Within this protection zone restrictions would be placed on the movement of animals.

The document then goes on to state that:

"It is not possible to predict the precise control arrangements that would be required in any given disease outbreak because the response would always take into account actual circumstances at the time. But in all cases the wider impact of restrictions would be considered and, in the case of HMP Foston Hall prison, the prison would expect to be represented in consultation with Defra, allowing the prison management to take necessary actions to maintain acceptable levels of service".

Having reviewed the application and associated submissions, it is clear there are a number of inconsistencies which remain in the updated CMP dated August 2014. Not least, and as pointed out by the Ministry of Justice that:

"The section begins by stating that access to the prison will be retained at all times. It subsequently states that it is difficult to conceive of a situation in which significant and long lasting restrictions on access to the prison would arise during animal disease outbreak. A reasonable interpretation of this is that short or (in the applicant's view) insignificant restrictions on access are conceivable" (emphasis added). Clearly this statement fails to provide satisfactory comfort that in all instances 24 hour access every day of the year access could be maintained.

Similarly the updated CMP fails to consider the possibility of the onsite destruction of animals within section 2.3 of the report – an issue also previously considered by this Council in previous responses to this consultation. Should a significant event such as an outbreak of Foot and Mouth Disease occur, clearly the implications if such an event

could be catastrophic. However it is worth stating that events which could limit access to the site or require the destruction of animals are unlikely and whilst there could potentially be high impact should it occur, the weight that can be attached to such concerns should reflect the limited risk of such events occurring.

That said, despite the preparation of the CMP, members may remain concerned by the unsatisfactory degree of uncertainty regarding the potential of some crises events to affect Foston Hall Prison, or more specifically the access to the prison (Uttoxeter Road) which is the sole access point for both facilities.

Finally in respect of other identified access issues, there is no additional information within the updated and republished Environmental Statement which would assuage members concerns regarding the potential for additional traffic movements and their effects on the local road network should congestion or traffic problems arise on the A50.

Recommendation

The Committee's instructions are requested. Any response should be considered against the updated national and local policy and advice set out above.

Item 1.2

Reg. No. 9/2014/0090/FX

Applicant:
Pinehouse Ltd.
School Lane
Normanton Le Heath
Leicester
LE67 2TU

Agent:
Mr David Granger
David Granger Design Ltd
The Old Dairy
Mill Street
Packington
Ashby De La Zouch
Leicester
LE65 1WN

Proposal: **THE ERECTION OF 4 NO. TWO STOREY DWELLINGS
AND 2 NO. SINGLE STOREY DWELLINGS ON LAND TO
THE REAR OF OVERSEAL MANOR STABLES HALL
CROFT AVENUE OVERSEAL SWADLINCOTE**

Ward: **SEALES**

Valid Date: **05/02/2014**

Following a site visit members resolved to grant permission for this application at the meeting on 15 April 2014, subject to a unilateral undertaking under Section 106 of the Town and Country Planning Act to secure developer contributions. The undertaking has not yet been provided and thus a decision notice has not yet been issued. The application is reported back to Committee because at the meeting of the Environment and Development Services Committee on 29 January, members agreed to change the Council's developer contributions policy to reflect new central government advice in the National Planning Practice Guidance, notably not to seek tariff style contributions for development less than 11 dwellings/1000sq m. This application therefore requires reconsideration.

Updates to the previous report appear below in italics.

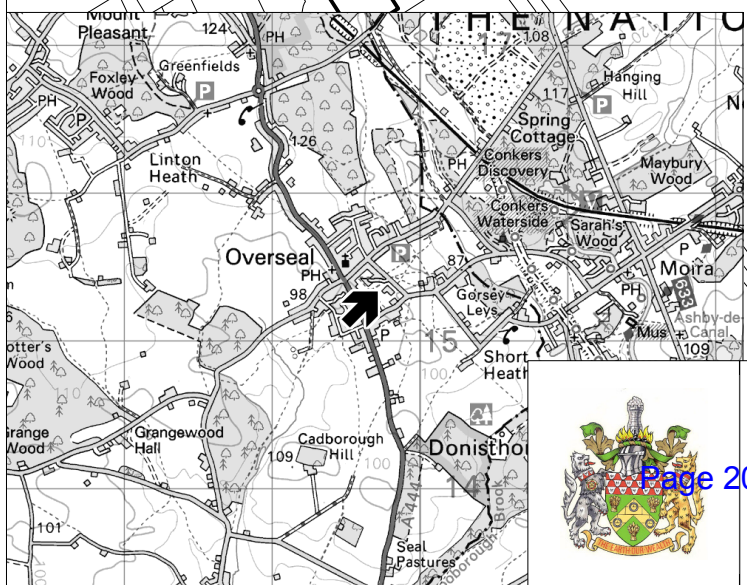
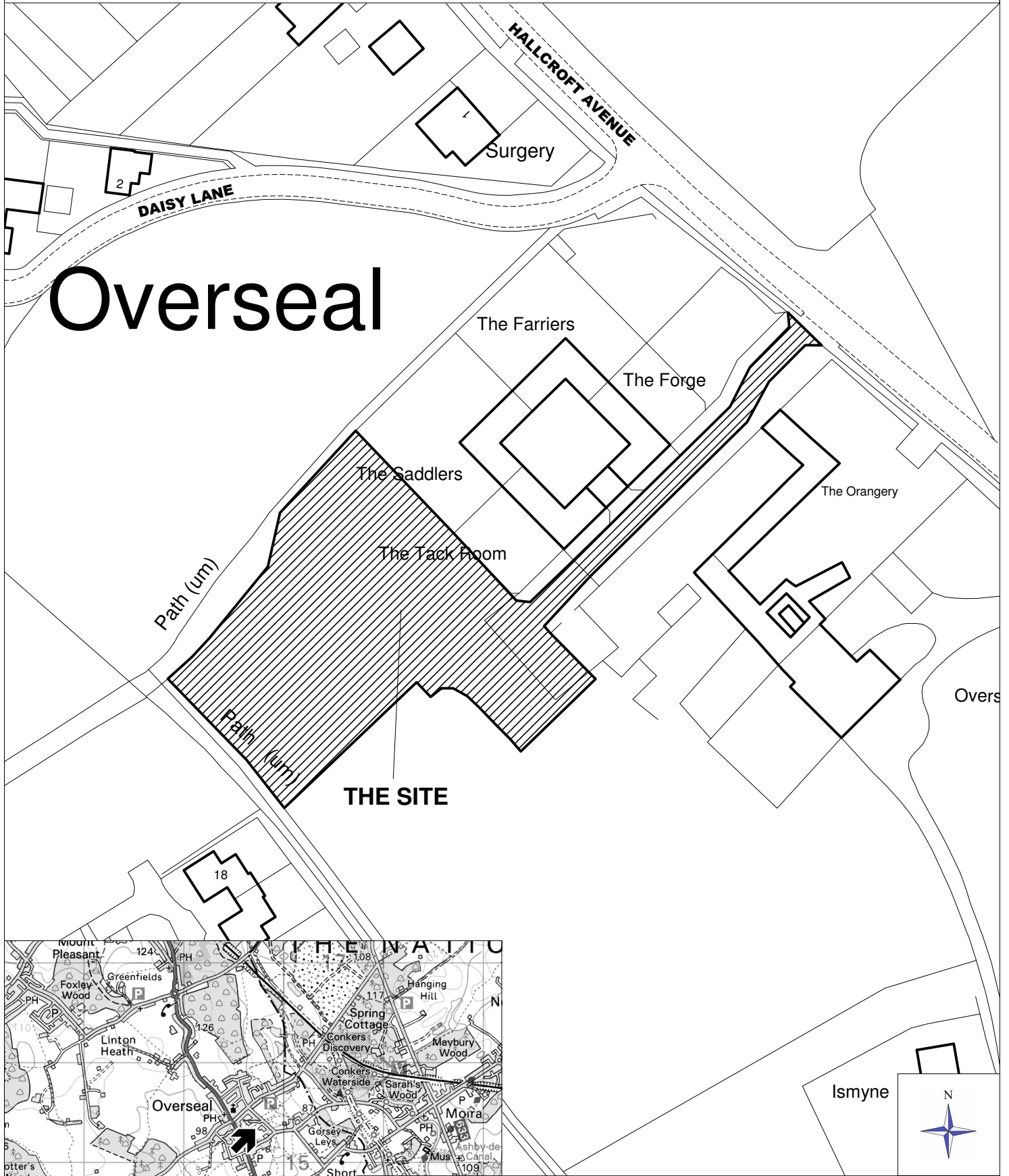
Reason for committee determination

The application is brought to Committee at the request of Councillor Frost as local concern has been expressed about a particular issue and there are unusual site circumstances that should be considered by the Members.

Site Description

The application site comprises some 0.29ha of land to the rear of Overseal Manor Stables, which is a relatively recently constructed building in a traditional courtyard form

9/2014/0090 - Land to the rear of Overseal Manor Stables, Hall Croft Avenue, Overseal, Swadlincote (DE12 6JF)



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comprising four dwellings: The Saddlers, The Farriers, The Tack Room and The Forge. Overseal Manor, a Grade II Listed Building, was converted to form four dwellings at a later date. The site itself comprises a small paddock which is currently grassed and which slopes upward in the westerly direction towards the rear of the site.

The western and northern boundaries are formed by two mature hedgerows of approximately two to four metres in height. The remainder of the land to the southeast of the site is open grassland which is separated from the converted Manor by various boundary enclosures.

The site is within the Overseal confine boundary, as denoted on Inset 22 of the Proposals Map for the Adopted Local Plan. It is also within the catchment area for the River Mease Special Area of Conservation (SAC).

The routes of Public Footpath Nos. 18 and 19 border the site on the northwest and southwest facing boundaries but lie outside the site itself and therefore would remain unaffected by the proposals.

Proposal

The application proposes the erection of a terrace of four, two-storey dwellings, the frontages of which would face into the site and two demi-detached, single storey dwellings positioned at right angles to the two-storey dwellings, again facing into the site. The proposal would provide a mix of two and three-bedroom properties. The frontages of all properties would be provided with landscaped pathways leading from the car parking court, which would be located at the south eastern end of the site. The vehicular access would lead off the existing private driveway and extend into the site, terminating in a turning head to provide a turning area for service vehicles. An area to the southwest of the development would be landscaped, the details of which are proposed for future agreement. Each property would have its own rear garden area, ranging from 172 m² to 441 m². Each dwelling would be provided with two car parking spaces in the parking court.

Applicants' supporting information

The application is supported by the following documents, which are available of the Council's website:

- Heritage Statement, together with the Listing Text for Overseal Manor
- Planning Statement
- Design and Access Statement

These are summarised as follows:

Heritage Statement

The proposed dwellings would be some distance from the principal listed building and largely screened from its view by intervening features, including boundary walls, hedges etc. The application site makes neither a positive nor a negative contribution to the significance of Overseal Manor or its ability to experience its significance as a heritage asset. Any direct or indirect impact that the proposals would have on the setting of

Overseal Manor would, at worst, be neutral and would not affect the appreciation of its special architectural and historical character.

Planning Statement

Overseal has been identified by the Council as a sustainable settlement and, as such, the principle of a degree of new housing is accepted as being likely to take place. The site lies within the settlement boundary in the current Local Plan and it can be argued that, in light of housing requirements and the need for a 5 year supply of deliverable housing, there are no reasons why, in principle, permission should not be granted.

The development of the site in the manner proposed will have no adverse impact upon the character and appearance of the area, the setting of Overseal Manor or upon the amenities of nearby residents. The proposal complies with the relevant policies in the adopted Local Plan and accords with the general thrust of the NPPF to encourage sustainable development. There are no impediments to the delivery of the site and if permitted will result in the provision of six additional dwellings in the village.

Design and Access Statement

This covers the physical, social and economic contexts of the development, as well as policy considerations and a site evaluation. In terms of scale, appearance and design, the proposal is for six dwellings which would constitute an appropriate level of development for an edge of settlement location (21 dwellings per ha.). Discussions with the Council's Conservation and Heritage Officer indicated at an early stage that a replication of The Stables development would not be an appropriate form of development and suggested a smaller scale cottage-style development as being more in keeping. The inclusion of two single storey dwellings would assist in keeping the height of the low as the land rises and shows a continuation of the 'stepping down' of the built form from The Stables development, through the two storey dwellings and ending with the single storey dwellings, i.e. diminishing in size and scale from the more 'grand' Stables complex.

Whilst Overseal boasts a variety of construction materials throughout the village it is proposed to use red brick throughout the development with clay tiles and timber windows; precise colours and types to be submitted to the Council for approval.

Planning History

9/1999/0591 – Outline for the erection of four dwellings – approved October/November 1999

9/2003/0243 – Erection of four dwellings (reserved matters for landscaping only) approved 23/04/2003

9/2003/0604 & 0605 – Revisions to previous permissions, including an amended layout, fenestration and garaging for units 1 and 2, formation of unit 3 in Overseal Manor, together with garage and courtyard for unit 4 and rendering of Overseal Manor – approved 03/10/2003

9/2005/0951 & /0952 – Conversion and extension to form dwelling, Unit 2 Overseal Manor – approved 12/12/2005

Various other applications for works to protected trees (TPO210).

Responses to Consultations

The Environmental Protection Officer (contaminated land) has no comment.

Severn Trent Water has no objection subject to a condition in respect of drainage.

The County Highway Authority was originally concerned about the ability for refuse and other service vehicles to enter and leave the site in a forward gear without causing damage to areas intended for landscaping and possibly to residents' or visitors' cars parked along the driveway. Amended plans to satisfy these concerns have been received which illustrate that a service vehicle can enter, turn and leave the site in a forward gear and on this basis and subject to conditions there are no objections to the proposal from the highway safety point of view.

The County Archaeologist considers there is some potential for medieval or post-medieval archaeology to survive within the application site and therefore there is a requirement to establish the significance of any heritage assets within the site. He recommends that the proportionate approach would be to require a geophysical survey of the 0.3ha proposal area to be submitted as part of the application. This has been undertaken and forwarded to the County Archaeologist who considers that there is potential for some remains to be present and recommends a condition in respect of a written scheme of investigation.

Natural England has no objections to proposal in respect of the River Mease SAC and the SSSI subject to conditions in respect of the additional foul water and the direction of surface water.

The Environment Agency has confirmed that it considers there to be no significant effect on the integrity of the River Mease SAC.

Derbyshire County Council (education) seeks a S106 contribution towards secondary education of £17,176.

The Peak and Northern Footpaths Society has no objections provided that the full widths of the two public footpaths remain unobstructed at all times during and following construction of the development.

Derbyshire County Council (Public Rights of Way) has no objection to the proposal as the scheme does not appear to affect the routes. However, it should be noted that:

- The routes must remain open, unobstructed and on their legal alignments at all times;
- There should be no disturbance to the surface of the routes without prior authorisation from the Rights of Way Inspector for the area;
- Consideration should be given to members of the public using the routes at all times;
- A temporary closure of the routes may be granted to facilitate public safety subject to certain conditions;

- The width of the right of way should not be encroached upon by any structures.

Responses to Publicity

Overseal Parish Council strongly objects to the proposal on the following grounds:

- The proposal is not in keeping with this part of the village, being next to a grade II listed building and a development of four high quality dwellings. The design is detrimental the appearance of the area and no notice has been taken of the Council's Design Code in relation to appearance of the buildings. A total of 12 windows would face the existing Stables development to the detriment of privacy.
- Inability to access the proposed dwellings by refuse vehicles would result in 22 refuse bins being assembled on the verge at Hallcroft Avenue, which would restrict visibility for vehicles emerging from the site at a point where visibility is often restricted by vehicles associated with the doctor's surgery.
- Increased traffic using and parking along the private drive would be unsatisfactory. No garage provision or visitor parking provision has been made.
- A survey undertaken in 2008 concluded there was a need for no more than 12 affordable dwellings in the village. The District Council is about to construct 12 Council houses in Lullington Road therefore this need is catered for. Consequently, the proposed dwellings are not required.
- No environmental or ecological studies have been carried out even though it is known that there used to be Great Crested Newts in the pond within the Manor grounds. No maintenance arrangements have been provided for the remaining paddock area.
- If approved, the development could create a precedent for more intensive development within the remaining grounds of the Manor to the detriment of the area and vehicular safety within Hallcroft Avenue.
- The character of Overseal is changing from a primarily local settlement to a commuter village.

The Chair of Governors for Overseal Primary School has written clarifying the needs of the School. He writes that the School is currently housed within an old building that is rapidly become full to capacity. As of February 2014 the School has 203 pupils on roll with a maximum capacity of 206, which is expected to be reached in September 2014. Further development within the village will only bring additional families and increased strain on an already struggling school. Without Central Government or private developer funds to improve the facilities at the school resources will become increasing stretched. The current situation as it stands is:

- Infants currently housed in a second hand portacabin originally donated by the Coal Board, which is in poor condition.
- No space or resources to cater for KS1 classes above legal limit. Placing children in a classroom which is undersized, with inadequate toilet and cloakroom facilities for extra children would result in considerable impact on the school.
- In adequate assembly hall – lunch currently is in two sittings with children also eating in classrooms. It is not possible to accommodate all children in one sitting in the timescales available.

- The school office is a shared staff room which seats half the teaching staff at any one time. The head teacher's office is a converted cupboard. There is no storage space.
- The fire certificate just about covers the whole school assemblies with numbers at its current level.

Further development within the village and the school's catchment that aims to attract families' needs to be considered carefully. The school is stretched to breaking point and without further investment continual development only increases this demand. For this reason the Governing Body has to strongly object to any proposed residential development within the village.

Overseal Footpath Group has no objections in principle but points out that the pipe wall, a heritage feature that lies to the north of the development should remain unchanged and the responsibility for cutting the hedgerow to the north and west of the site to ensure rights of way are kept clear if side growth and overgrowth should be made clear.

Eight letters/emails of objection from neighbouring residents have been received, which make the following points:

- a. The advice of the Conservation Officer has been ignored as the proposed terrace of housing would be at the same height as The Stables development.
- b. Overlooking and overshadowing of existing properties and possible loss of outlook resulting in adverse effect on residents' wellbeing and quality of life.
- c. Layout should be re-considered with single storey units next to the Stables development with the two-storey properties beyond.
- d. Safety of children playing on the private drive
- e. Low cost family homes have already been provided for elsewhere within the village therefore targets have been reached.
- f. Village school is at capacity.
- g. Provision of services and failure to consider impact
- h. Unrealistic parking layout and lack of turning space will encourage parking on Hallcroft Avenue, which has restricted visibility. The current situation already affects the grass verges, turning them to mud.
- i. An alternative access off Daisy Lane should be considered.
- j. Proposed development not in harmony with surrounding buildings
- k. Purchased property based on the high standards of the development which have been overridden in this instance with values and principles now being irrelevant
- l. Inconceivable that planning permission should be granted
- m. Complete disregard to neighbours in the pre-application process
- n. Led to believe the paddock would remain undeveloped. It is an intrinsic part of the Overseal Manor quadrangle.
- o. Green space within the village should remain so.
- p. No ecological assessment has been carried out.
- q. 'Cottage-style' design is disputed.
- r. Twelve windows overlooking existing rear gardens.
- s. Disruption and disturbance from additional traffic using the private drive.
- t. Extension of mains services into the site would be contested legally.
- u. No permission would be given for a Council refuse vehicle to access the site via the private drive and compensation would be claimed if any damage was caused to parked cars by that vehicle.
- v. No visitor parking provision.

- w. Negative impact on the exclusive curtilage of Overseal Manor and surrounding properties and negative impact on property values.
- x. Missed opportunity to achieve a more sympathetic design and relation to existing dwellings.
- y. Overseal deserves the same attention to detail as other villages in the area seem to get.
- z. Parked cars would hinder/obstruct access for emergency services

Development Plan Policies

The relevant policies are:

Adopted Local Plan:

Saved Housing Policies H5, 11

Saved Environment Policies Env8, 10, 13, 14

Saved Transport Policy T6

Housing Design and Layout SPG

Emerging Local Plan:

Policy H1 (Settlement Hierarchy)

National Guidance

The National Planning Policy Framework (NPPF), paragraphs 7, 14, 49, 50, 56, 57, 61, 65, 66, 109, 118, 119, 128, 129, 131, 132, 186, 187, 203, 204

NPPG

Planning Considerations

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

- The principle of the development
- Conservation and heritage issues
- Neighbours' amenities
- Design
- Highway safety
- River Mease SAC/SSSI
- Section 106 including education
- Miscellaneous issues

Planning Assessment

Principle of Development

Overseal Manor (formally a school) is a Grade II Listed Building which was converted to residential use around 2005 or shortly thereafter. Planning permission for the erection of four further dwellings to the northwest of Overseal Manor was approved and the development subsequently constructed, also in 2005. This took the form of a courtyard development, square on plan, designed to appear as a converted stable block. The

application site is to the southwest of the courtyard development and currently forms an open paddock bordered by timber fencing, hedgerows and brick walls. The site, including Overseal Manor and the Stables development, is wholly within the confine boundary of Overseal.

Adopted Local Plan Saved Housing Policy 5 supports new housing development in villages provided that they can be accommodated within the village confines.

Similarly, the NPPF supports new residential development stating in paragraph 49 that 'Housing applications should be considered in the context of the presumption in favour of sustainable development'.

Overseal is a village that provides a range of services, such as public transport, a convenience store, primary school, various shops, takeaways, at least one public house, a church etc., and is classed as a Key Service Village in Policy H1 of the Emerging Local Plan. The site is therefore considered to be sustainable and suitable for residential development of a scale appropriate to its surroundings and character. It is considered, therefore, that the principle of residential development is acceptable.

Conservation and heritage issues

The application site is in a sensitive location that was, and remains, part of the parkland associated with Overseal Manor, and has, in the past, been acknowledged as an important space in Overseal. Saved Local Plan Environment Policy 8 makes it clear that 'Open spaces, gaps and landscape features which make a valuable contribution to the character or the environmental quality of individual villages and settlements will be safeguarded from development'.

That said, from a conservation and heritage point of view the prime consideration is the effect of development on the setting of the Grade II listed building. Initial pre-application discussions envisaged a development that extended further to the southeast, which was not encouraged as it would impinge on the setting of the Manor. The setting of the Manor appears to be less open than it formerly was and intervisibility between the application site and the listed building is limited by planting and the presence of an earth bank. Nevertheless, the open grassland to the southwest of the listed building is still important to the historic setting of the house, and the current application represents the extent of development which was felt to be acceptable without undue harm to that setting. The site is screened from Hallcroft Avenue by the Stables development which makes a fitting companion to the listed building, when viewed from the road. The development of the site in the manner proposed would retain the open aspect of the site when viewed along the existing access road from Hallcroft Avenue, thereby complying with Environment Policy 8.

However, despite limited visibility from the principal building and public road, it is still important that the houses are designed and detailed to a high standard to reflect the sensitive setting. Although the siting is quite discreet the houses would still form part of the experience of visiting the site in general and would integrate with the existing development. For that reason, it is considered that conditions relating to the constructional detail would be relevant.

Other than the proposed southeastern boundary treatment, on the advice of the Conservation and Heritage Officer, it is considered that the proposed scheme would not

have a detrimental impact on the setting of Overseal Manor and therefore is acceptable in conservation and heritage terms.

The amenities of neighbouring residents

Of the four residential units within the Stables development, The Saddlers and The Tack Room are the two that are most likely to be affected by the proposal. Both properties are two-storeys in height and have habitable room windows facing the rear of the proposed two-storey terraced dwellings. The rear gardens of The Saddlers and The Tack Room are 13m deep from the rear elevation to the 1.8m high brick boundary wall. The rear gardens of the proposed terraced dwellings would be a minimum of 9m deep from the rear elevation to the end of the garden, with a 1m wide rear walkway linking the rear gardens to the proposed parking court. This gives a total of a minimum distance of 23m between habitable room windows, which is 2m more than the any of the minimum distances specified in the Council's SPG. The proposal, therefore, is not considered to be detrimental to the amenities of the neighbouring residents by way of overlooking or loss of privacy as it exceeds the adopted minimum distance standards. For similar reasons it is also considered that there would be no loss of natural light or sunlight to the neighbouring dwellings.

The main impact for the residents of The Saddlers and The Tack Room would be their loss of an open view. However, there is nothing within the planning legislation that allows applications to be refused on grounds of loss of view.

It is considered therefore that the proposal would not adversely impact on the amenities of the neighbouring residents and is therefore in accordance with Local Plan Saved Housing Policy 11 and the advice in the Housing Design and Layout SPG.

Design

The Council's Conservation and Heritage Officer has been closely involved in the proposed scheme, which has resulted in a development that would be sympathetic to the parkland setting, the adjacent residential properties and the Grade II Overseal Manor. The terrace of four cottages has a low eaves height and simple elevations with either brick window and door arches or stone heads. There is a difference in land levels in the southeast/northwest direction which has resulted in a design that indicates a difference of finished floor levels, and consequently roof heights, of approximately 0.9m, with Plot 1 being set at 11.000m and Plot 4 at 11.9m. This not only creates interest but is better suited to the site itself.

The pair of single storey dwellings proposed to the southwest of the terraced dwellings would, again, be of simple design, each with a front entrance canopy, low eaves and chimneys and in line with the advice of the Conservation and Heritage Officer. It is understood that there is a District-wide need for single storey dwellings and this development will go some way to address this need.

In terms of policy therefore, it is considered that the design of the proposed dwelling is in accordance with both the advice in Local Plan Saved Housing Policy 11 and the design objectives of the NPPF, particularly paragraph 65 which states that: 'Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design

(unless the concern relates to a designated asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits)'. It has already been established that the setting of the designated asset, i.e. Overseal Manor, would not adversely affected by the proposal.

Highway Safety

Following concerns raised by the County Highway Authority with regard to refuse vehicles, amended plans have been submitted to show how a refuse vehicle could enter the site, via the private drive, and turn/manoeuvre in order to leave the site in a forward gear. The Highway Authority is now satisfied with the proposal and has no further objections, subject to conditions. The proposal is therefore in accordance with Local Plan Saved Transport Policy 6.

River Mease SAC/SSSI

Natural England has not raised objections to the proposal with regard to the River Mease SAC issues or SSSI issues, subject to conditions. The main concerns relate to whether Severn Trent Water Sewage Treatment Plant has capacity for the additional foul water and that the surface water generated from the development is not directed towards the mains sewer. With regard to the first concern, Severn Trent Water has indicated that there are no objections in principle subject to drainage details being submitted, which is standard for this type of development. Secondly the application forms state that surface water would go to a soakaway and it is not unreasonable to request details of this via condition so that Natural England can be satisfied that there will be no adverse impact on the integrity of the SAC or SSSI.

It is considered therefore that this matter can be dealt with satisfactorily by conditions and through the approved developer contributions scheme to improve water quality management.

The application has been screened in line with The Habitats Directive and it is the opinion of the District Council that the proposed development would not be likely to have a significant effect on the River Mease SAC. An appropriate assessment under the Habitats Directive is therefore not required.

Section 106 matters

The previous report noted that the application is a proposal for a residential development in excess of four dwellings. As such there was then a requirement for developer contributions towards recreation, health and education as well as the River Mease Developer Contribution Scheme towards water quality management.

The breakdown of contributions required for this proposal is as follows:

<i>River Mease contributions</i>	<i>£ 1,386.00</i>
<i>Recreation (open space, outdoor & built facs.)</i>	<i>£11,424.00</i>
<i>Healthcare</i>	<i>£ 3,306.00</i>
<i>Education</i>	<i>£17,176.00</i>
<i>Total</i>	<i>£33,292.00</i>

Following the latest NPPG guidance, and the subsequent resolution of the E& DS Committee, there is now no basis to seek the contributions for recreation, healthcare and education. The River Mease contribution is in accord with the NPPG, which endorses the use of planning contributions to fund measures with the purpose of facilitating development that would otherwise be unable to proceed because of regulatory or EU Directive requirements, as is the case here.

Miscellaneous Issues

With regard to the issues raised by the Chair of Governors of Overseal Primary School, the County Education Officer has confirmed that the school has a net capacity of 206 children and a current number on roll of 204, with falling rolls predicted over the next five years. Four, two-storey dwellings would yield one primary school pupil and one secondary school pupil and therefore there is no requirement for a contribution towards primary school education. With regard to the current situation within the school itself and its limited resources, this is a matter for the County Council as part of its financial obligations and upgrade procedure as and when financial resources allow. The requirement for an increased contribution towards the upgrade of the school would be unreasonable and therefore not in accordance with the NPPF.

With regard to the pre-application discussions that have been had in relation to the proposal, it is not normal practice to involve neighbours in such discussions of this nature, as there is often an issue of confidentiality to consider and neighbouring residents have no automatic right to be consulted prior to the planning application process. In some instances applicants may approach the neighbours prior to the submission of an application but this is by personal choice and is not a requirement.

The Parish Council's argument regarding precedence is not a reason for refusal, as each application is assessed on its own merits. Furthermore, any development within the curtilage/setting of a Listed Building would require planning permission and the merits of such a proposal would be up for separate and individual discussion at that time.

Natural England has not requested an ecological assessment and is satisfied that the proposal is acceptable based on the information already provided.

With reference to affordable housing, there is no evidence within the submitted documents to demonstrate that the development is intended to be for social housing and therefore the points made regarding the recent decision to approve the Council's application for twelve affordable dwellings in Lullington Road is not relevant.

Possible negative impact on property values is not a material planning consideration.

With regard to comments about parking, the scheme shows full provision of off-street parking on the site (i.e. two spaces per dwelling).

In conclusion, it is considered that the proposed scheme is in accordance with local and national planning policies and, subject to the applicant's entering into a legal agreement under Section 106 of the Planning Act and the imposition of appropriate conditions, planning permission should be granted.

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.

Given that there have been no other changes to any material considerations, it is anticipated that members will not alter the decision other than to endorse the removal of the requirement to pay the contributions referred to.

Recommendation

Subject to the applicant entering into a legal agreement, *to secure the River Mease contribution*, under Section 106 of the Town and Country Planning Act 1990, as amended, **GRANT** permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 13.2908 (Location Plan) and 13.2908.11B received on 13th March 2014 and showing the outline of the site enlarged and the provision of a turning circle/swept path for use by refuse and emergency vehicles.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the setting of the existing Grade II Listed Building, neighbouring properties and the locality generally.
4. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

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

6. With regard to Condition 5 above, particular attention should be given to the boundary treatment on the southeastern boundary of the site, which should be delineated by lightweight, black steel, 'parkland' fencing of horizontal rails without a hedge or other planting.

Reason: In order to maintain the open parkland character of the site and wider area.

7. All boundary walls shall have a traditional style of shaped clay or stone coping the details of which, including a sample, shall have been previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the surrounding area.

8. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority and shall not be replaced with joinery of any other type unless previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the surrounding area.

9. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the area.

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

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and character of the area.

11. Pointing of the proposed dwellings shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joints shall be slightly recessed with a brushed finish.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the area.

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

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the surrounding area.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwellings and no buildings, gates, walls or other

means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting of the Grade II Listed Building, size of the development, the site area and effect upon neighbouring properties.

14. 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.

15. All planting, seeding or turving 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.

16. A. No development shall take place, until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording.
 2. The programme for post investigation assessment.
 3. Provision to be made for analysis of the site investigation and recording.
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 5. Provision to be made for archive deposition of the analysis and records of the site investigation.
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.
- C. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under 'A' above and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

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

17. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
Reason: In the interests of flood protection and pollution control.
18. With reference to Condition 17 above the applicant shall confirm (a) that the local sewage treatment works can handle the added foul water; and (b) that surface water is not to be directed to the mains sewer and the detailed drawings of any proposed soakaway shall be submitted before commencement of works. The works shall be carried out in accordance with the approved details.
Reason: In order to achieve the River Mease water quality conservation targets, as required by Natural England.
19. Prior to any other operations commencing, space shall be provided within the site curtilage for the storage of materials, site accommodation, loading and unloading of materials, parking and manoeuvring of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of highway safety.
20. Prior to the first occupation of any of the dwellings hereby approved the car parking and manoeuvring space, including the service vehicle turning head, shall be provided, laid out and constructed in accordance with the application drawing (13.908.11B) and maintained throughout the life of the development free from any impediment to its designated use.
Reason: In the interests of highway safety.
21. Notwithstanding the submitted drawing 13.2908.11B prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).
Reason: To protect the amenities of adjoining properties and the locality generally.

Informatives:

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

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

The routes of Public Footpaths 18 and 19 adjacent to the site must remain open, unobstructed and on their legal alignment at all times. There should be no disturbance to the surface of the routes without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

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

Item **1.3**

Reg. No. **9/2014/1126/FM**

Applicant:
Pinehouse Ltd
School Lane
Normanton le Heath
Leicester
LE67 2TU

Agent:
Mr David Granger
David Granger Design Ltd
The Old Dairy
Mill Street
Packington
Ashby De La Zouch
Leicester
LE65 1WN

Proposal: **ERECTION OF 3 NO. TWO STOREY DWELLINGS AND 1
NO SINGLE STOREY DWELLINGS ON LAND TO THE
REAR OF OVERSEAL MANOR STABLES HALL CROFT
AVENUE OVERSEAL SWADLINCOTE**

Ward: **SEALES**

Valid Date: **28/11/2014**

Reason for committee determination

The application is of a similar nature to 9/2014/0090, previously considered by Committee and also included in this agenda for reassessment.

Site Description

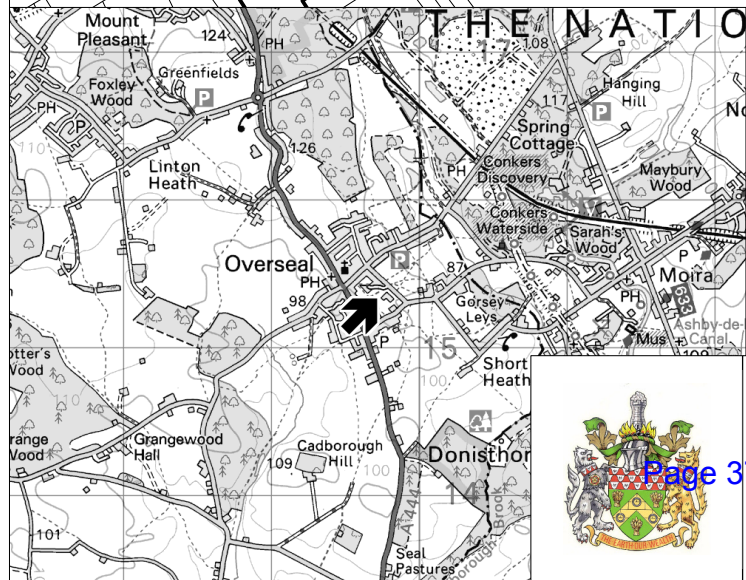
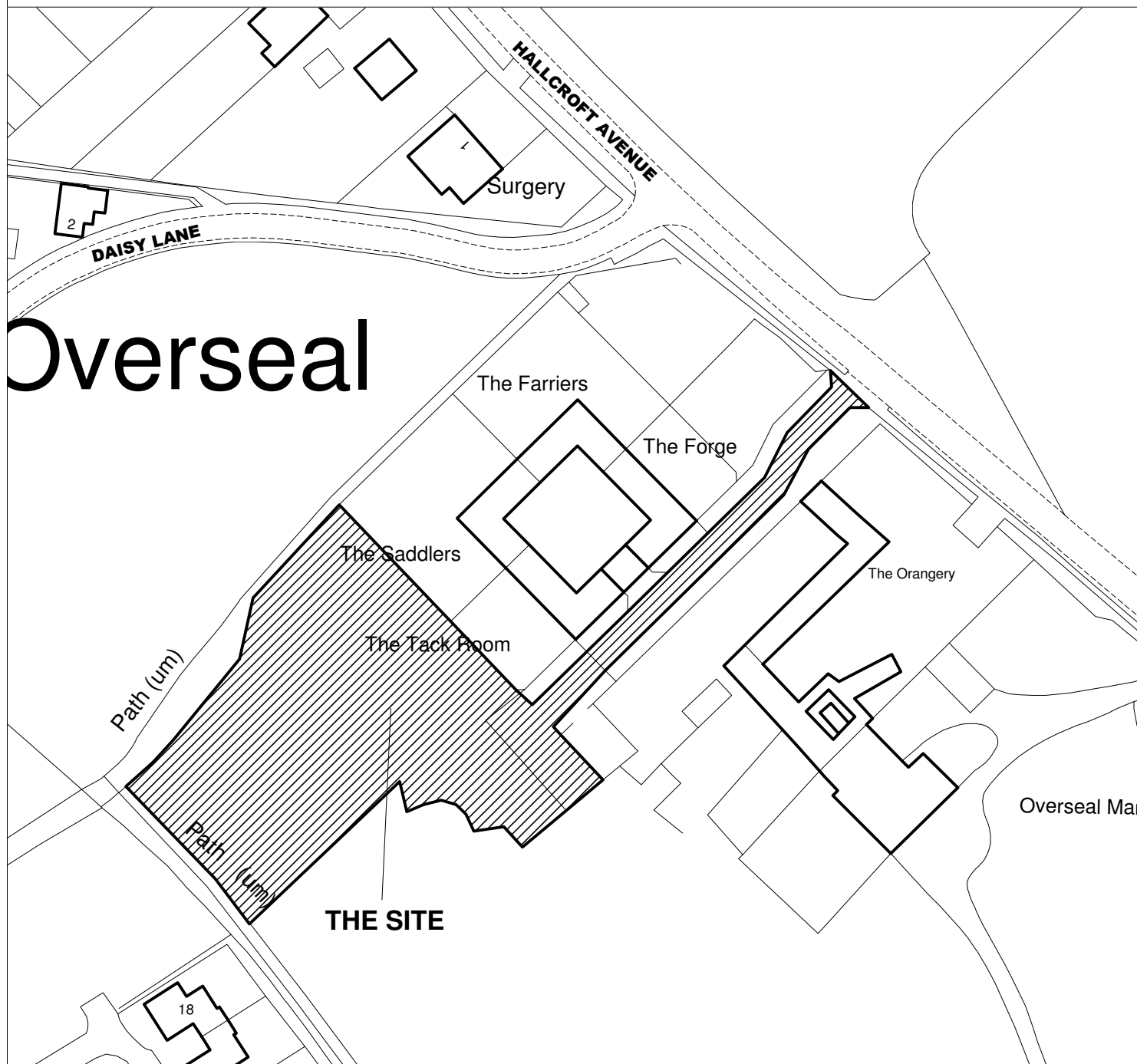
The application site comprises some 0.29ha of land to the rear of Overseal Manor Stables, which is a relatively recently constructed building in a traditional courtyard form comprising four dwellings: The Saddlers, The Farriers, The Tack Room and The Forge. Overseal Manor, a Grade II Listed Building, has been converted to form four dwellings. The site itself comprises a small paddock which is currently grassed and which slopes upward in the westerly direction towards the rear of the site.

The western and northern boundaries are formed by two mature hedgerows. The remainder of the land to the southeast of the site is open grassland which is separated from the Overseal Manor by various boundary enclosures.

The site is within the Overseal village confine, as defined on Inset 22 of the Proposals Map for the Adopted Local Plan. It is also within the catchment area for the River Mease Special Area of Conservation (SAC).

9/2014/1126 - Land to the rear of Overseal Manor Stables, Hall Croft Avenue, Overseal, Swadlincote (DE12 6JF)

Overseal



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The routes of Public Footpath Nos. 18 and 19 border the site on the northwest and southwest facing boundaries but lie outside the site itself and therefore would remain unaffected by the proposals.

Proposal

The application proposes a row of three two-storey detached dwellings, the frontages of which would face into the site and a single storey dwelling positioned at right angles to the two-storey dwellings, again facing into the site. The frontages of all properties would be provided with landscaped pathways leading from a car parking area, which would be located at the south eastern end of the site. The vehicular access would use the existing private driveway, extended into the site and terminating in a turning area for service vehicles. An area to the southwest of the development would be landscaped, the details of which are proposed for future agreement. Each dwelling would be provided with two car parking spaces, with four additional visitors' spaces.

Applicants' supporting information

The application is accompanied by a Planning and Design & Access Statement, and a Heritage Statement, which include the following points:

- The application seeks permission for a scheme which is almost identical in its overall form and scale but with four dwellings instead of six as approved. In terms of the overall form of development the main change is that the previous terrace of four dwellings would be reduced to three detached houses.
- The principle of residential development was considered acceptable when the previous scheme was approved in April 2014.

Planning History

9/1999/0591 – Outline for the erection of four dwellings – approved October/November 1999

9/2003/0243 – Erection of four dwellings (reserved matters for landscaping only) approved 23/04/2003

9/2003/0604 & 0605 – Revisions to previous permissions, including an amended layout, fenestration and garaging for units 1 and 2, formation of unit 3 in Overseal Manor, together with garage and courtyard for unit 4 and rendering of Overseal Manor – approved 03/10/2003

9/2005/0951 & /0952 – Conversion and extension to form dwelling, Unit 2 Overseal Manor – approved 12/12/2005

9/2014/0090 – Terrace of four dwellings and two bungalows – Committee resolved to grant permission subject to Unilateral Undertaking (under S106).

Various other applications for works to protected trees (TPO210).

Responses to Consultations

Natural England has no objection, in principle, with regard to impacts on the River Mease SAC and SSSI. However Natural England asks for Severn Trent's confirmation that there is adequate capacity at Overseal Sewage treatment works, and that any planning consent is implemented in full accordance with the Developer Contributions Scheme. Biodiversity and landscape enhancement conditions are also recommended.

Sever Trent Water Ltd has no objection.

The Development Control Archaeologist recommends a condition to secure a scheme of archaeological works.

The Highway Authority has no objection subject to a condition requiring the provision of parking and manoeuvring areas for residents' and service and delivery vehicles

The County Council's Rights of Way Officer has no objection but recommends informatives to advise the applicant on protection of abutting public footpaths.

The Contaminated Land Officer has no comment.

Responses to Publicity

The Parish Council objects as follows:

- a) The development would be out of character with and detrimental to the setting of the listed Overseal Manor, contrary to the Councils' Design Code.
- b) The house would be higher than the existing Stables development, to the detriment of the privacy of existing occupiers.
- c) Additional bins from the development would be placed on the verge at Hallcroft Lane, restricting visibility for emerging vehicles, at a location where parked vehicles at the doctor's surgery already restrict visibility.
- d) Traffic using the private drive would be significantly increased and there would be inadequate parking.
- e) There is no need for any more affordable homes.
- f) The remaining paddock area should be maintained as open space.
- g) A precedent would be set for more intensive development of the Overseal Manor grounds.
- h) Together with other development sites the character of the village is changing from local settlement to commuter village.
- i) The reason for fewer homes is clearly to avoid Section 106 contributions.
- j) A site visit should be undertaken.

Peak and Northern Footpaths has no objection subject to the adjoining rights of way being kept open and unobstructed at all times.

Overseal Volunteer Footpath Group comments with regard to the future management of the hedgerows that border the public footpaths and that it is essential that the hedgerow along the eastern boundary of Public Footpath 6 is trimmed on the track side to ensure a clear passage along the right of way.

Six neighbours object as follows:

- a) The previous decision was contentious and has caused considerable community disruption.
- b) Previous objections still stand and there is ongoing strong local objection.
- c) The bungalow does not give the appearance of a single dwelling.
- d) The County Council's design guide allows a maximum of 5 dwellings off a private drive. Man-carry distances would be exceeded and fire appliances would not be able to achieve the requisite minimum distance away from the development.
- e) Residents use the driveway for parking so access to the site, particularly by service vehicles, would be impeded.
- f) There would be unacceptable overlooking from the new dwellings to existing properties, causing loss of privacy.
- g) The site access already experiences hazards around the congested parking area to the doctor's surgery. The proposal would increase risk of accident.
- h) There is no indication as to how the development would connect to the main sewer without affecting the private drive.
- i) The development would be out of character with the locality and the setting of the listed building.
- j) Although there would be no developer contribution with the reduced number of houses the social impacts would be the same, including upon the overcrowded school.
- k) There would be increased disturbance and pollution to several properties by increased use of the private drive.
- l) Additional traffic in the private drive would endanger children.
- m) Although one room is shown as a study the detached houses have four bedrooms.
- n) Larger houses are likely to be occupied by more car users, thus increasing traffic.
- o) Parking would be inadequate and the tandem parking arrangement inconvenient to use, causing parking in the private drive.
- p) The 3D visualisation does not accurately reflect the impact on neighbours, which would be greater than the previous application.
- q) The proposal deviates from the concept of smaller scale 'cottage style' development favoured by the conservation officer.
- r) The dwellings would be higher than existing properties.
- s) The standing of extra wheelie bins would reduce visibility at the access to Hallcroft Avenue.
- t) A better more sympathetic solution to the provision of housing on the site should be investigated

Two letters of support have been received, making the following points:

- a) The development would be of traditional design, maintaining the character and setting of Grade II Listed Overseal Manor;
- b) The small, select development is to be commended;
- c) It is important to put mitigation measures for the wildlife in place and monitor them regularly;
- d) The site should be checked for breeding species before development commences and should be completed out of breeding season;
- e) Most sensible housing development to be commented on over the past two years.

Development Plan Policies

The relevant policies are:

Adopted Local Plan: Saved Housing Policies 5 & 11, Environment Policies 8, 10, 13 & 14 and Transport Policy 6.

Emerging Local Plan: Policies H1, S2, S6, SD1, BNE1, BNE2, BNE3, INF8.

Housing Design and Layout SPG

Historic South Derbyshire SPG

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Chapter 4 (Promoting sustainable transport)

Chapter 6 (Delivering a wide choice of high quality homes)

Chapter 7 (Requiring good design)

Chapter 11 (Conserving and enhancing the natural environment)

Chapter 12 (Conserving and enhancing the historic environment)

Paras 186 & 187 (Decision-taking)

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

Annex1 (Implementation)

NPPG ID 18a (Heritage) ID23b (Developer contributions) ID26 (Design) ID8 (Natural Environment).

Planning Considerations

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

- The principle of the development
- Design, conservation and heritage issues
- Neighbours' amenities
- Highway safety
- River Mease SAC/SSSI

Planning Assessment

Principle of Development

The site, in addition to Overseal Manor and the Stables development, is wholly within the village confine of Overseal as defined in the adopted Local Plan.

Adopted Local Plan Saved Housing Policy 5 supports new housing development in villages provided that they can be accommodated within the village confines.

Similarly, the NPPF supports new residential development stating in paragraph 49 that *'Housing applications should be considered in the context of the presumption in favour of sustainable development'*.

Overseal is a village that provides a range of services, such as public transport, a convenience store, primary school, various shops, takeaways, at least one public house, a church etc., and is classed as a Key Service Village in Policy H1 of the Emerging Local Plan. The site is therefore considered to be sustainable and suitable for residential development of a scale appropriate to its surroundings and character. It is considered, therefore, that the principle of residential development is acceptable.

Another material consideration of significant weight is the recent resolution to grant permission in respect of 6 dwellings under application ref. no. 9/2014/0090.

Design, conservation and heritage issues

The application site is in a sensitive location that was and remains part of the parkland associated with Overseal Manor. In the past it has been acknowledged as an important space in Overseal. Saved Local Plan Environment Policy 8 makes it clear that *'Open spaces, gaps and landscape features which make a valuable contribution to the character or the environmental quality of individual villages and settlements will be safeguarded from development'*.

From a conservation and heritage point of view the prime consideration is the effect of development on the setting of the Grade II listed building. Discussions prior to the previous application envisaged a development extending further to the southeast, which was discouraged as it would have impinged on the setting of Overseal Manor. The setting of the Manor is less open than it once was, with intervisibility between the application site and the listed building being restricted by planting and the presence of an earth bank. Nevertheless, the open grassland to the southwest of the listed building is still important to the historic setting of the house, and the current (and previous) application represents the extent of development considered acceptable without undue harm to that setting. The site is screened from Hallcroft Avenue by the Stables development, which makes a fitting companion to the listed building when viewed from the road. The development of the site in the manner proposed would retain the open aspect of the site when viewed along the existing access road from Hallcroft Avenue, thereby complying with Saved Environment Policy 8.

Despite limited visibility from the principal building and public road, it is still important that the houses are designed and detailed to a high standard to reflect the site's sensitive setting. Although the siting is quite discreet the houses would still form part of the experience of visiting the site in general and would relate visually to the existing development in the grounds of the Manor. For that reason, it is considered that conditions relating to the detail of external appearance would be appropriate.

In terms of mass and form the proposal does not differ materially from the previous scheme which was considered not to have a detrimental impact on the setting of Overseal Manor, thereby acceptable in conservation and heritage terms and compliant with Saved Environment Policy 13 and Chapters 7 & 12 of the NPPF.

Archaeological interest would be safeguarded by the recommended condition in accord with Saved Environment Policy 14

The amenities of neighbouring residents

Of the four residential units within the Stables development, The Saddlers and The Tack Room are the two nearest to the proposed new houses. Both properties are two-storey buildings and have habitable room windows facing the rear of the proposed dwellings. There would be a total of a minimum distance of 23m between habitable room windows, compared with the 21m minimum distance between such rooms specified in the Council's SPG. The proposal is not considered to be detrimental to the amenities of the neighbouring residents by way of overlooking or loss of privacy because it exceeds the adopted minimum distance guidelines. For similar reasons it is also considered that there would be no loss of natural light or sunlight, or unacceptable overbearing effect to the neighbouring dwellings. The guidance assumes consistent levels. Taking into account the gently sloping nature of the site a condition is recommended to ensure that finished floor levels are subject to subsequent approval in the interest of maintaining privacy. As such the proposal is in accord with Local Plan Saved Housing Policy 11.

Highway Safety

The access, parking and manoeuvring areas are as previously approved, and to the satisfaction of the Highway Authority. Subject to the Highway Authority's recommended conditions the proposal is therefore in accordance with Local Plan Saved Transport Policy 6.

River Mease SAC/SSSI

Natural England has not raised objections to the proposal with regard to the River Mease SAC or SSSI issues, subject to conditions. The main concerns relate to whether Severn Trent Water Sewage Treatment Plant has capacity for the additional foul water. This issue would be adequately addressed through the River Mease Developer Contribution Scheme towards water quality management (£1315). Such a contribution is in accord with the NPPG, which endorses the use of planning contributions to fund measures with the purpose of facilitating development that would otherwise be unable to proceed because of regulatory or EU Directive requirements, as is the case here. As such the development would accord with Saved Environment Policy 11 and Chapter 11 of the NPPF

The previous application was screened in line with The Habitats Directive and it was the opinion of the District Council that the proposed development would not be likely to have a significant effect on the River Mease SAC. The same considerations apply to this application. An appropriate assessment under the Habitats Directive is therefore not required.

Conclusion

The proposed development would not result in any demonstrable negative impacts when compared with the previous application and therefore represents sustainable development to which a favourable presumption is afforded by Paragraph 14 of the NPPF.

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

Recommendation

Subject to the applicant providing an undertaking to secure the River Mease contribution under Section 106 of the Town and Country Planning Act 1990, as amended, **GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the submitted drawings 13.2908.25, 26, 27, 28 & 29 unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the setting of the existing Grade II Listed Building, neighbouring properties and the locality generally.
4. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the area.
6. With regard to Condition 5 above, particular attention should be given to the boundary treatment on the southeastern boundary of the site, which should be

delineated by lightweight, black steel, 'parkland' fencing of horizontal rails without a hedge or other planting.

Reason: In order to maintain the open parkland character of the site and wider area.

7. All boundary walls shall have a traditional style of shaped clay or stone coping the details of which, including a sample, shall have been previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the surrounding area.

8. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority and shall not be replaced with joinery of any other type unless previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the surrounding area.

9. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the area.

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

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and character of the area.

11. Pointing of the proposed dwellings shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joints shall be slightly recessed with a brushed finish.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the area.

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

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the surrounding area.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwellings and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged

red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting of the Grade II Listed Building, size of the development, the site area and effect upon neighbouring properties.

14. 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.

15. 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.

16. A. No development shall take place, until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording.
 2. The programme for post investigation assessment.
 3. Provision to be made for analysis of the site investigation and recording.
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 5. Provision to be made for archive deposition of the analysis and records of the site investigation.
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.
- C. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under 'A' above and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

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

17. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local

Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

18. With reference to Condition 17 above the applicant shall confirm (a) that the local sewage treatment works can handle the added foul water; and (b) that surface water is not to be directed to the mains sewer and the detailed drawings of any proposed soakaway shall be submitted before commencement of works. The works shall be carried out in accordance with the approved details.

Reason: In order to achieve the River Mease water quality conservation targets, as required by Natural England.

19. Prior to any other operations commencing, space shall be provided within the site curtilage for the storage of materials, site accommodation, loading and unloading of materials, parking and manoeuvring of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

20. Prior to the first occupation of any of the dwellings hereby approved the car parking and manoeuvring space, including the service vehicle turning head, shall be provided, laid out and constructed in accordance with the application drawing (13.908.25) and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

21. Notwithstanding the submitted drawing 13.2908.25 prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed levels.

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

Informatives:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848.

Further information is also available on The Coal Authority website at www.coal.decc.gov.uk

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

The routes of Public Footpaths 18 and 19 adjacent to the site must remain open, unobstructed and on their legal alignment at all times. There should be no disturbance to the surface of the routes without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

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

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

Item 1.4

Reg. No. 9/2014/0629/FH

Applicant:
Mrs Angela Beynon
6 Cambrian Way
Swadlincote
DE11 9DT

Agent:
Mrs Angela Beynon
6 Cambrian Way
Swadlincote
DE11 9DT

Proposal: **RETROSPECTIVE APPLICATION FOR DECKING AND
REPLACEMENT BOUNDARY FENCING AT THE REAR
OF 6 CAMBRIAN WAY SWADLINCOTE**

Ward: **SWADLINCOTE**

Valid Date: **23/07/2014**

Reason for committee determination

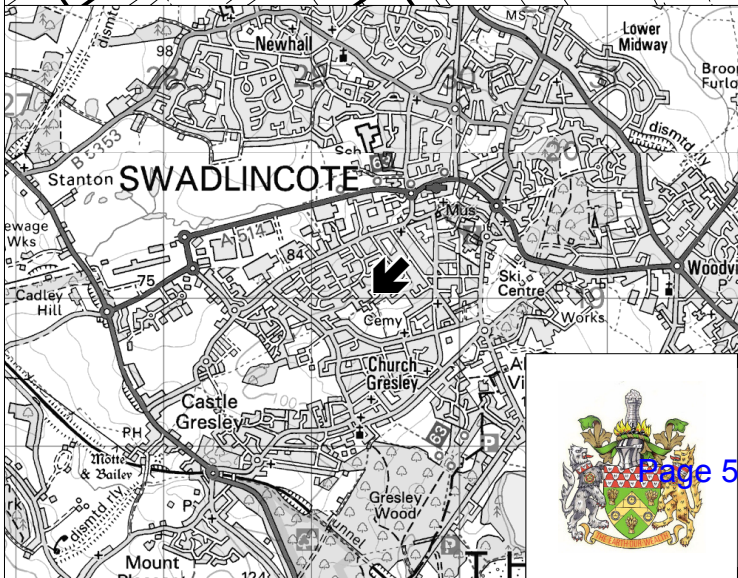
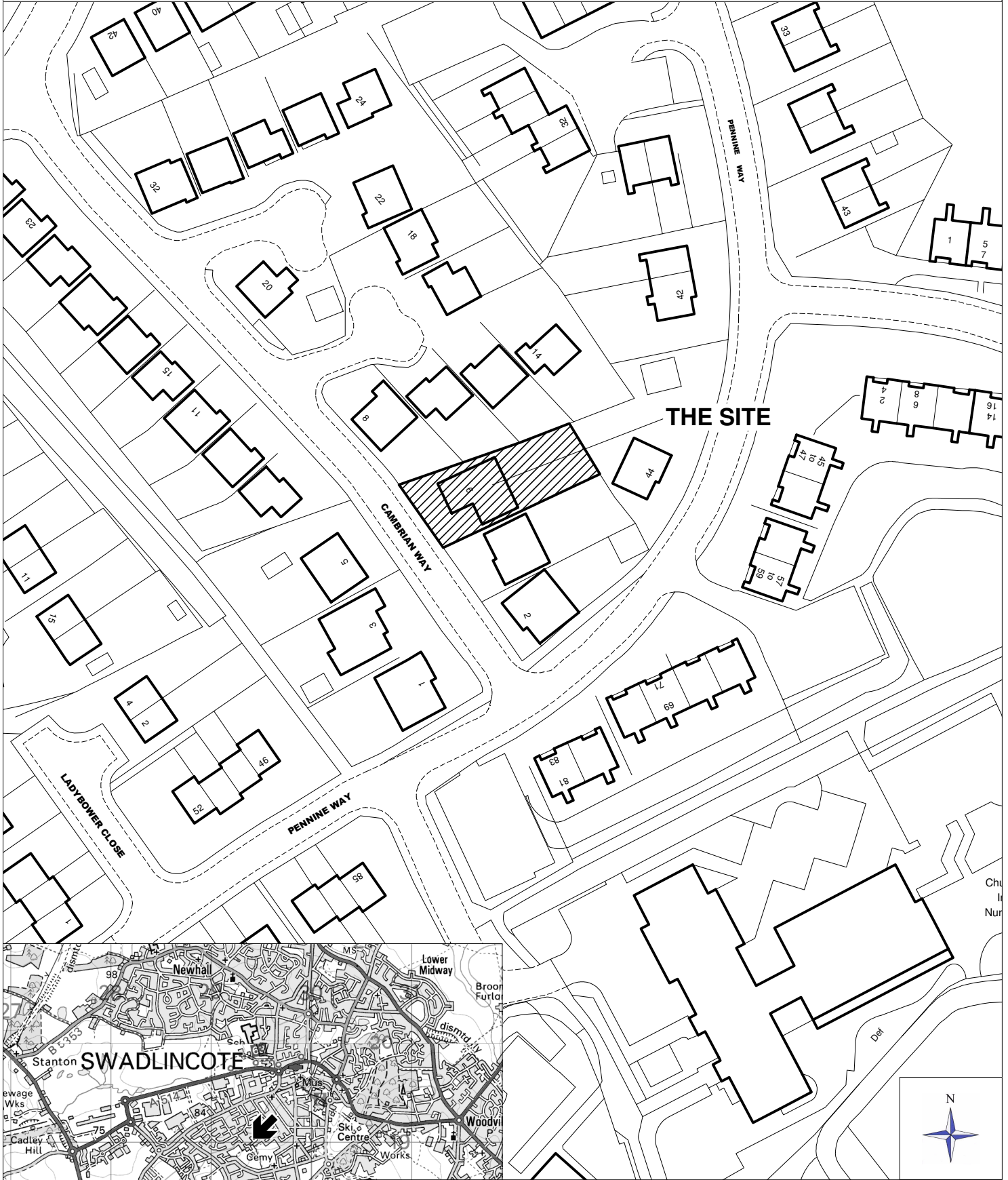
The application is reported to the meeting at the request of Councillor Mulgrew because unusual site circumstances should be considered by Committee.

Site Description

The application property is a bungalow fronting Cambrian Way. The side (north) boundary abuts the rear boundaries of nos 8 -14 Cambrian Way, which are located to the north in a small cul-de-sac at right angles to the subject property. Those properties are at a considerably lower level than the application site. The bungalow itself is supported by a substantial retaining structure along the boundary, while the garden slopes steeply down towards Nos 8 -14. Until last year this garden boundary was defined by a mature Hawthorn hedge, supplanted with a conifer hedge.

Proposal

The application seeks to retain decking, constructed after removal of the boundary hedges and a previous area of decking. While the new decking is roughly at ground level where it meets the garden, the downward slope means that the structure is considerably higher than the ground levels to Nos 8-14 Cambrian Way. The supporting structure has been clad so that it has the appearance of a horizontal boarded fence when viewed from those properties. The decking is presently topped by a low fence, which is not high enough to preclude views to the rear main windows and gardens of Nos 8-14.



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South Derbyshire District Council. LA 100019461. 2014

The applicant proposes to fix a Willow fence screen, 1.8 m in height, to the existing fence supports. This is an amendment to an original proposal to erect a standard timber screen fence.

Applicants' supporting information

The information submitted with the application states that hedges were removed after they had caused structural damage to the conservatory. The applicant also states that the original decking was decaying and dangerous.

Planning History

9/2004/0349 – Permission granted for conversion of garage to living accommodation.

Responses to Consultations

None.

Responses to Publicity

Two letters of objection have been received from neighbouring properties and their comments are summarised as follows:

- a) Removal of the lines of trees has led to a loss of privacy of their garden and all rear windows. The only way to overcome the lack of privacy is the erection of a fence of a similar height to the trees.
- b) The hedge was the boundary and a fence has been erected beyond this.
- c) The area where the shed and patio are located has been built up in recent years.
- d) The raising of levels resulted in a loss of privacy for 44 Pennine Way. This has been resolved by the occupiers of No 44 who have recently erected a summerhouse.
- e) Planning policy suggests that decking should not be more than 30cm above ground level.

Development Plan Policies

The relevant policies are:

Local Plan: None relevant.

Local Plan Part 1 (Submission Version): SD1

National Guidance

National Planning Policy Framework (NPPF) paragraph 17

Planning Considerations

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

- Impact on the character the area.
- Residential amenity.

- Fallback position.

Planning Assessment

Impact on the character the area.

Although there are limited views of the structure from the public highway, the context is such that it appears little different to the various numerous screen fences also in view. Therefore the impact on the general character of the area is negligible.

Residential amenity

Land levels reduce significantly to the north and four detached properties, with relatively small rear gardens, directly face the garden to the subject property.

Prior to the decking being erected there was a hedge on the boundary, which retained mutual privacy despite the differing land levels. The current situation is that the decking significantly overlooks neighbouring properties to a level that is not acceptable. There is a 0.9m fence on the decking which does not provide adequate screening.

The application proposes the erection of 1.8m high Willow screen panels on the northern boundary at the ground level of the decking to provide screening. This would be adequate to safeguard the privacy of the occupiers of Nos 8 -14 Cambrian Way and could be secured by condition.

The use of Willow fencing to provide a screen would soften the visual impact of the structure when viewed from the properties at the lower level. In terms of mass the completed structure would be similar to the previously existing hedge.

Fallback position

Removal of the decking, or alteration so that it meets permitted development criteria, would remove the opportunity to secure the provision of a screen to preclude overlooking to neighbours to the north.

Conclusion

The decking is considered to be acceptable provided that the proposed 1.8m Willow screen is erected along the northern boundary, and thereafter retained as such, in order to protect the privacy of the properties to the north which appears to address the main concern of the neighbouring residents.

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. Within one month of the date of this permission a 1.8m high Willow screen fence (measured from the level of the decking) shall be erected along the northern boundary of the decking area and this shall be retained in place, such that screening is secured, for the lifetime of the development.

Reason: To protect the privacy of the occupiers of neighbouring properties.

2. Notwithstanding the originally submitted details, this permission shall relate to the amended plan received 12 December 2014, showing a Willow screen unless as otherwise allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

Item 1.5

Reg. No. 9/2014/1049/F

Applicant:
 NM Joinery Ltd
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 Allestree
 Derby
 DE22 2LA

Agent:
 The Derby Architecture Co.
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 Allestree
 Derby
 DE22 2PG

Proposal: THE ERECTION OF EXTENSIONS AND ALTERATIONS TO EXISTING WORKSHOP AND GARAGE TO CREATE A DWELLING (RESUBMISSION OF APPLICATION REF: 9/2014/0832) AT 89 EGGINTON ROAD ETWALL DERBY

Ward: ETWALL

Valid Date: 03/11/2014

Reason for committee determination

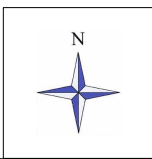
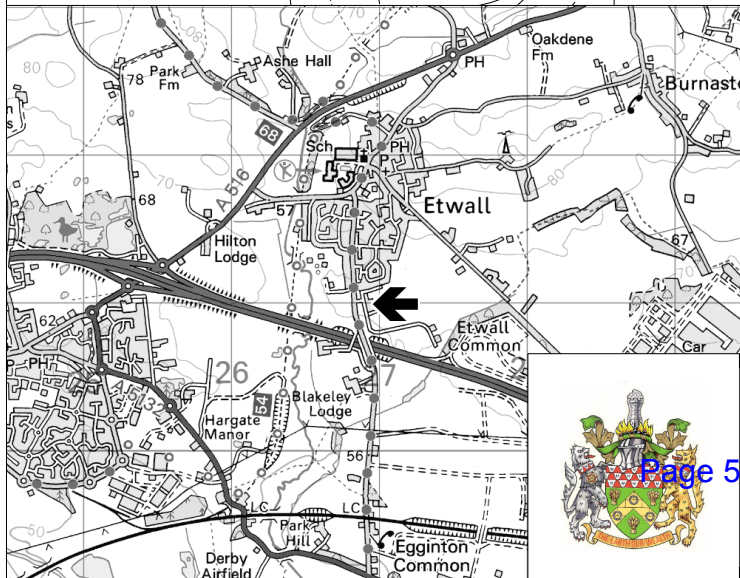
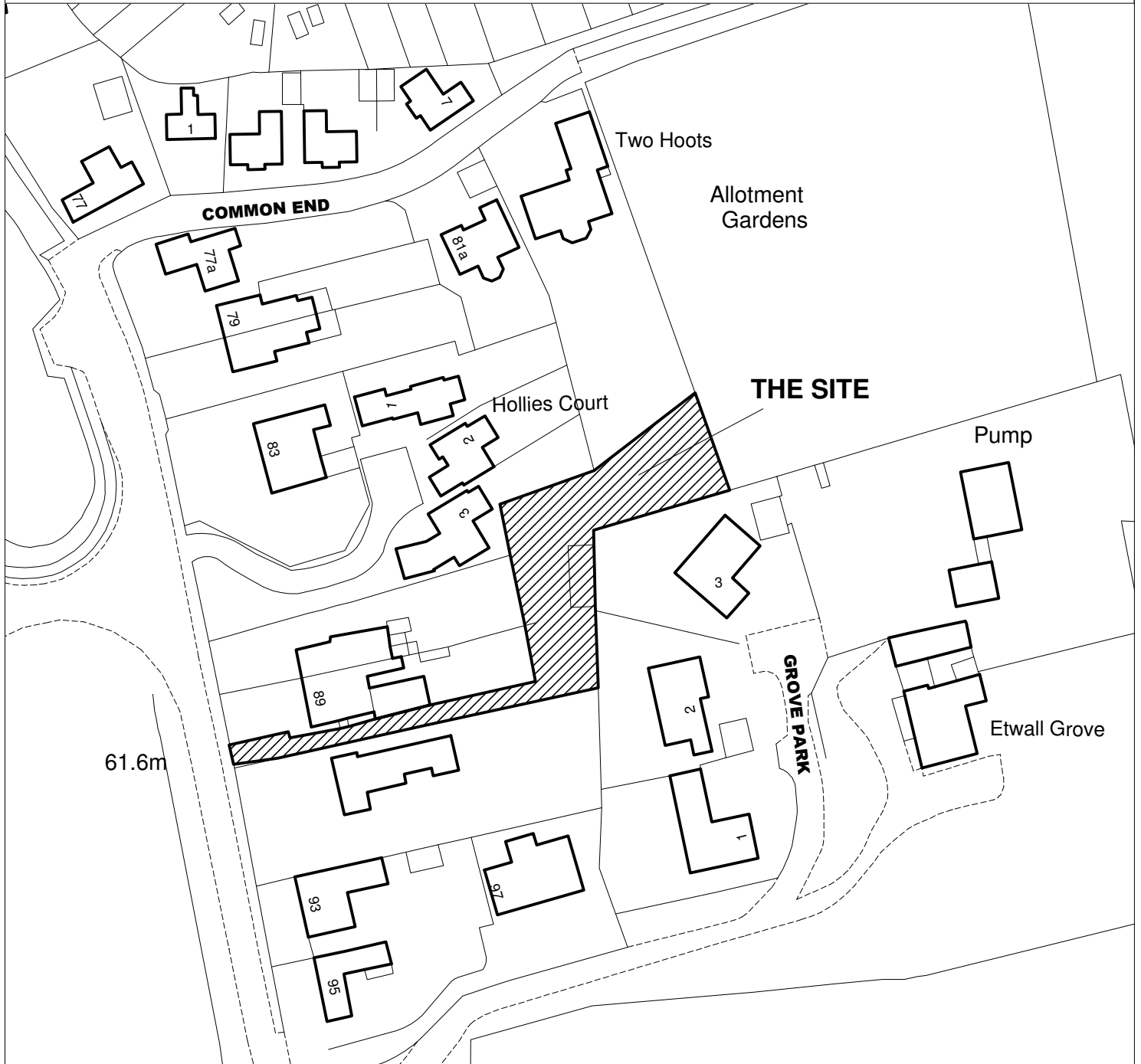
Councillor Brown has requested that this application be brought to Committee as local concern has been expressed about a particular issue.

Site Description

This is a substantial original outbuilding that may have served one or both of the dwellings fronting Egginton Road, numbers 87 and 89, plus a large detached double garage/store/workshop. The outbuilding forms a part of the boundary to 3 Grove Park that lies to the east of the application site, a high boundary wall then extends from that application building for a part of the shared boundary between the application site and 3 Grove Park and then there is a hedge for the remainder of that boundary. 3 Hollies Court has a boundary fence on the southern boundary that extends adjacent to the existing garage and beyond. 87 and 89 Egginton Road have a substantial leylandii type hedge on its rear, eastern boundary in front of the outbuilding, some 5 metres high. On the application side of the boundary this hedge has been cut back to reveal the boundary fence and a Spruce tree which is protected by a preservation order lies in the rear garden of 3 Grove Park.

Proposal

The proposal is a resubmission of a previous application that was withdrawn. It is also a redesign of a scheme which was previously approved and was to convert the outbuilding and add single storey additions to it. The current scheme proposes a two storey extension behind the existing garage/store/workshop which would link to the



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South Derbyshire District Council. LA 100019461. 2014

existing two storey outbuilding as well as a single storey garage on the southern side of the existing two storey outbuilding. The existing garage would be converted to a kitchen/dining area linking in to the ground floor of the proposed two storey extension with a living room and reception at ground floor level, a study, lobby, guest bedroom with en-suite also at ground floor level. A new attached single garage is also proposed on the other side of the two storey outbuilding. At first floor level the existing two storey outbuilding would contain two bedrooms, both with en-suite bathrooms, with the first floor of the new two storey extension containing a landing as well as a master bedroom with en-suite and dressing room.

Applicant's Supporting Information

The application is accompanied by a Design and Access Statement which describes the site and the buildings as well as the nature of the proposal. It explains that in the opinion of the applicant the proposals comply with the Council's adopted standards as well as planning policies and describes the nature of the development. It explains that care has been taken to avoid overshadowing and that this has been modelled and they consider that no additional overshadowing will occur.

Planning History

9/2013/0095 - the change of use from workshop to a residential dwelling and the erection of a link to garage incorporating a garden room and an extension on south elevation – Approved 25-Apr-13

9/2013/0096 - the erection of a double garage – Approved 09-Apr-13

9/2014/0832 - the erection of extensions and alterations to existing workshop and garage to create a dwelling – Withdrawn 31-Oct-2014

Responses to Consultations

The County Highway Authority has no comments to make.

Derbyshire Wildlife Trust request an informative be added to advise the applicant to consider the presence of bats during the conversion.

Severn Trent Water has no comment to make.

The Environmental Health Manager (Contamination) and has no comments to make.

Responses to Publicity

2 letters have been received that object to the development for the following reasons:

- a) It will cause loss of privacy and the plans do not accurately show our property or consider truly our windows.
- b) We will not allow access from our property to the site.
- c) It refers to minor changes but these are not minor and these will put a bedroom window directly overlooking our property.
- d) It is too large and too close to 3 Hollies Court, overshadowing and obscuring views from the property.

- e) The slight set back has not helped, it will still be overwhelming.
- f) It will overshadow our garden, particularly in the winter, creating a corridor.
- g) It is not similar to that approved.
- h) The link extension will be along the length of our garden and out of keeping with this semi-rural setting.
- i) The distances quoted appear anomalous and a site visit by committee ought to be made.
- j) The floorspace of the building will double and this is not typical for any property in our village.
- k) The Juliet balcony will overlook our garden.
- l) I object to the windows now proposed as they are much larger.
- m) The garage is not visually attractive and we had no say on its impact on our house.
- n) No consideration has been given to blocking my view.
- o) The applicant saying that there is no significant adverse effect in terms of height, mass, overshadowing and proximity is naïve.
- p) How will it be heated – will there be a log burner, gas fire plus chimney?

1 letter of support received which states that he agrees with the Design and Access Statement and supports the conversion, bringing it back into use, positively contributing to the conservation area and improving its character and appearance.

Etwell Parish Council objects on the basis that it will take away privacy for the surrounding properties which was reflected in condition 3 of the approved scheme. The property will be a full two storeys and will overlook surrounding properties contrary to that condition. The two storey extension will have considerable mass and when viewed from 3 Hollies Court will overshadow the garden, reducing light particularly in winter and will increase overshadowing.

Development Plan Policies

The relevant policies are:

The Adopted Local Plan: Housing Policy 5 & 11.

Supplementary Planning Guidance 'Housing Design and Layout' (SPG)

National Guidance

The NPPF - paragraphs 7, 9, 60, 61, 64, 126 & 215 and the NPPG.

Planning Considerations

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

- Design
- Impact on amenity of neighbours
- Highway safety

Planning Assessment

Design

The NPPF at paragraph 64 states that permission should be refused for development of poor design that fails to take opportunities for improving the character and quality of an area. It is also noted that paragraph 60 of the NPPF states that decisions should not try and impose architectural styles or particular tastes and not stifle innovation, originality or initiative local distinctiveness should be promoted. It is also acknowledged that there are differing styles of property in the area but that the existing outbuilding is of a traditional two storey form, as are the immediate residential properties. In this case the proposed siting, size and design of the proposed extensions and conversion, relative to the surroundings, would create an acceptable form of development that would not be detrimental to the overall visual amenity of the area. The development must be assessed on the basis of the immediate location and it is considered that on balance the design of the proposal is acceptable.

Impact on amenity of neighbours

The outbuilding forms a part of the original development along Egginton Road. The site lies within the village confine and determination of the application will rest on the assessment of the impact on amenity.

The outbuilding lies in close proximity to neighbouring houses, in particular 3 Hollies Court and 2 & 3 Grove Park. Firstly, examining the impact of the conversion including new extensions on the 2 Grove Park, that interrelationship is similar to that which would have resulted from the previously approved scheme, with a single first floor bedroom window in the side, southern elevation, albeit that the bedroom has been moved further from that shared rear boundary. As such no undue impact on the amenity enjoyed by the occupiers of that property arises above that which would result from the implementation of the approved scheme.

Turning to the impact of the proposal on the occupiers of 3 Grove Park, whilst the proposed two storey extension would have an impact on the occupiers of that property in terms of overbearance, overshadowing and loss of light, the proposal would not, notwithstanding the comments received, have any undue impact that would be at such a level that would offend the Council's standards to justify refusal of the application. In terms of loss of privacy and overlooking there would be no first floor windows facing that property except a proposed first floor bedroom window serving the master bedroom. However, the distances between that bedroom window and the principal lounge window, principal bedroom window and conservatory of 3 Grove Park would be set at distances that comply with the standards set out in the SPG. Accordingly in terms of loss of privacy and overlooking the proposal would not result in any undue impact on the occupiers of that property to reasonably justify refusal of the application.

With regards to the impact of the development on the amenity of the property to the west, 3 Hollies Court, that property has principal kitchen and lounge windows facing the proposal as well as principal first floor bedroom windows. Those windows would face the two storey extension as well as the ground floor windows in the extension and converted outbuilding serving the reception, study, lobby and guest bedroom windows at ground floor as well as the en-suite and bedroom window at first floor level. However, in terms of the distances between these windows, the proposed development complies with the standards set out in the SPG. Accordingly in terms of loss of privacy and overlooking the proposal would not, notwithstanding the comments received, have any

undue impact that would be at such a level to reasonably justify refusal of the application.

It is noted that 3 Hollies Court has an unconventional layout between the dwelling and its garden which results in the existing garage already lying directly in front of the principal kitchen windows and adjacent to the lounge. The existing single storey garage also forms a bulky addition to the garden boundary, behind the boundary fence. The proposed two storey extension would extend the mass of the garage even further along the shared garden boundary by approximately 6.7m with an eaves height of on that side of approximately 3.7m (5.6m to ridge). This element of the proposal would create a significant mass relative to the rear garden of that property but the applicant has tried to reduce this impact by reducing the ground and first floor levels of that part of the two storey extension by approximately 225mm relative to the existing garage and two storey outbuilding, the eaves height on that side by 500mm relative to the other side. In addition the wall has been set off the boundary by between approximately 1.1m and 1.8m and the roof designed so that the ridge is off centre and thus further from the boundary. The occupiers of 3 Hollies Court have raised objections relating to this interrelationship. However on balance it is considered that the proposal would not create such a significant adverse impact on the amenity of the occupiers of that property to justify refusal.

Highway safety

The application site has an extant permission for extension/conversion and this scheme does not have a material impact on highway safety relative to that approved scheme. It is noted that the County Highway Authority does not wish to comment of the proposal and as such in highway safety terms the proposal is considered to be acceptable.

Conclusion

The proposal would result in the reuse of a traditional outbuilding for productive use in a manner that would create an acceptable form of development whilst not having any undue impact on the amenity of neighbours.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. This permission relates to the plans validated by the Local Planning Authority on 3rd November 2014, as well as the additional plan received on 10th December 2014 and any variation to the approved drawings may need the approval of the Local Planning Authority.

Reason: For the avoidance of doubt as to what is approved.

3. Notwithstanding the details shown on the approved plans, prior to the first occupation of the dwelling hereby permitted, the windows serving the reception, study and lobby at ground floor as well as the en-suite and bedroom 3 on the western elevation of the converted outbuilding shall be permanently glazed in obscure glass in accordance with a scheme first approved in writing by the Local Planning Authority. Once installed these windows shall be permanently retained with obscure glass.

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting that Order) no window or opening (other than any that may be shown on the approved drawings) shall be formed in any elevation or roofslope of the development hereby approved unless planning permission has first been granted by the Local Planning Authority.

Reason: To avoid the possibility of overlooking in the interests of preserving the amenity of residents.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any Order revoking and re-enacting that Order), the dwelling hereby permitted shall not be extended or altered externally, have its roof enlarged or altered, be provided with a porch, incidental building or structure, or be painted externally.

Reason: In view of the form of the development, in the interests of visual amenity and to protect the amenity of neighbours.

6. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets.

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

7. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

8. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the extensions and the making good of brickwork within the buildings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

Informatives:

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

The applicant is advised that following consultation with Derbyshire Wildlife Trust, they advise that if any work is undertaken that affect the roof space, voids and/or roof tiles consideration should be given to the possibility of bats and that work should proceed with caution. If any bats or signs of bats are found work should cease immediately and advice should be sought from a professional ecologist.

Item 1.6

Reg. No. 9/2014/1054/FM

Applicant:
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Swadlincote
DE12 8EX

Agent:
C.A. Underwood
The Barn
Church Lane
Ravenstone
Coalville
Leicester
LE67 2AE

Proposal: **THE ERECTION OF HOUSE AND GARAGE TO REPLACE BUNGALOW AND ALTERATIONS TO EXISTING ACCESS AT 45 COALPIT LANE COTON IN THE ELMS SWADLINCOTE**

Ward: **SEALES**

Valid Date: **25/11/2014**

Reason for committee determination

The application could be construed as partly contrary to the development plan and therefore requires careful consideration by the committee.

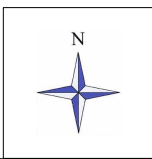
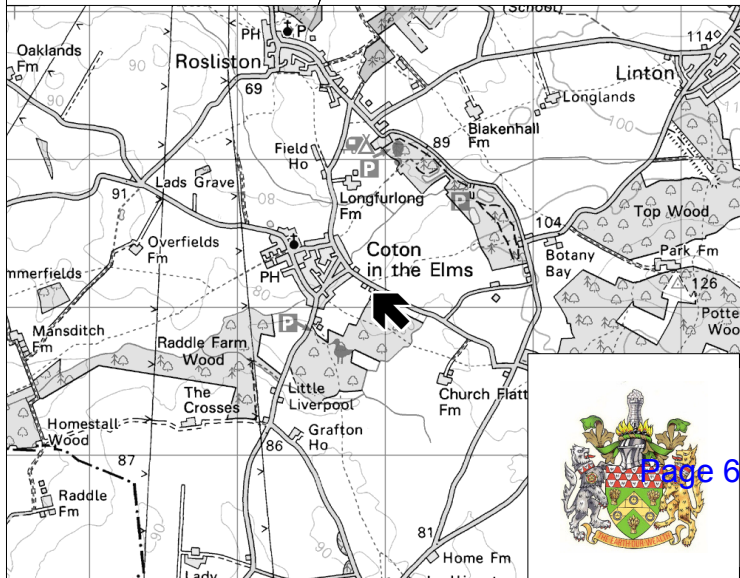
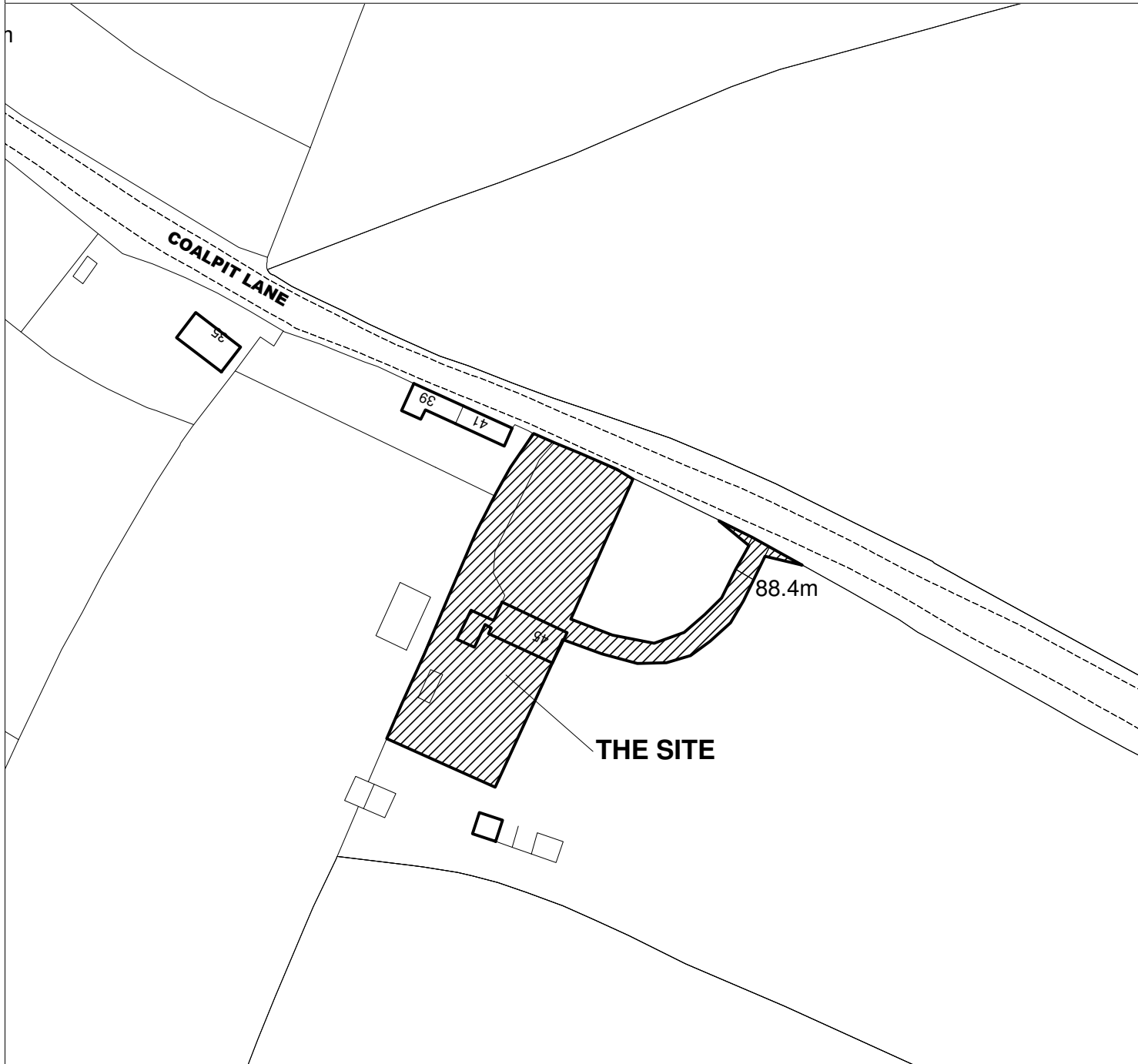
Site Description

The application site forms a single storey, brick and tile dwelling and its domestic curtilage at No.45 Coalpit Lane, Coton in the Elms, together with part of the adjacent field to the east. The existing vehicular access to the dwelling is to the immediate east, and follows the side boundary of No.41 Coalpit Lane. The dwelling is set back from the road by approximately 30m, is positioned on rising ground and is slightly elevated from the road. The site is approximately 220m from the edge of the village.

There is an existing, attached single garage to the side of the dwelling and a variety of outbuildings to the rear. The site lies outside the existing village confine of Coton and is surrounded by open countryside on all sides. Nos. 41 and 39 Coalpit Lane comprise a pair of semi-detached dwellings which are positioned close to the roadside edge, fronting the road to the west of the application site.

Proposal

The application proposes the demolition of the existing dwelling and its replacement with a new, one and a half storey dwelling and attached double garage on a similar



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footprint to the existing, although the double garage would be positioned further forward within the plot.

It is also proposed to form a new vehicular access driveway into the site from the east at the point where an existing field gate provides agricultural access into the adjacent field. The new access would be provided with sightlines that would necessitate the removal of part of the existing frontage hedge and its replacement with a new post and rail fence and Hawthorn hedge. The existing vehicular access adjacent to No.41 would be closed, leaving pedestrian access only at this point. A parking and turning area would be provided at the end of the driveway to the front of the dwelling.

Applicants' supporting information

None submitted

Planning History

None

Responses to Consultations

Severn Trent Water has no objections to the proposed development.

The County Highway Authority comments that the existing access is located within the 30mph speed limit but is severely substandard in terms of visibility. Whilst it could be improved in the easterly direction over controlled land, visibility to the west is obstructed by the adjacent property. The location of relocated the access to the east falls within the 60mph speed limit and the sightlines appropriate to that speed cannot be achieved. However, the Highway Authority considers that vehicles' speeds are below the posted limit and that the proposed access would be an improvement over that existing. As such, there are no objections to the proposal subject to conditions relating to the timescale for the formation of the new access, the closure of the existing access, the position of any gates and the provision of the parking and manoeuvring space.

Responses to Publicity

Coton in the Elms Parish Council has no objection in principle to the proposal. It requests, however, that particular attention is given to the aesthetics of the development, particularly in relation to its size, bearing in mind its prominent location at the entrance to the village. It also assumes there would be no objection from the County Council with regard to the formation of the new access.

Development Plan Policies

The relevant policies are:

Adopted Local Plan: Saved Housing Policies 8 (B), 11; Saved Environment Policy 1; Saved Transport Policy 6

Emerging Local Plan (Pre-submission): S2, H1, BNE1, BNE3, BNE4, INF1, INF2,

Housing Design and Layout SPG

National Guidance

National Planning Policy Framework (NPPF), paragraphs 7, 8, 9, 14, 17, 56, 57, 60, 61, 64, 118, 186, 187

National Planning Practice Guidance (NPPG)

Planning Considerations

The main issue central to the determination of this application is the design and layout, form and bulk of the proposed replacement dwelling and whether it complies with policy.

Planning Assessment

Design and layout, form and bulk and compliance with policy

The existing two-bedroom property is of a single storey, plain and somewhat dated design. Owing to its location, being set well back from the road and screened by a mature hedgerow, it is not particularly prominent in the landscape. The property is currently occupied and appears to be well maintained.

The main part of the proposed replacement dwelling would be positioned in a central location within the site and occupy a similar position to the existing. It would be of traditional appearance, similar in style to that of the replacement dwelling at Threeways, which was granted permission by Members at the January committee. It would have steeply pitched roofs and gabled dormers. Windows and doors would have soldier course heads and brick cills. The upper floor accommodation would be within the roof space with natural light being provided by a mix of dormer windows and roof lights.

The proposed dwelling would be much larger than the original dwelling in terms of footprint, form and bulk, and, owing to its two-storey design, would be significantly more visible from the surrounding area, particularly when approaching the site from the east, although, owing to the position of Nos. 39 and 41 close to the road, it would also be glimpsed when leaving the village along Coalpit Lane.

Saved Housing Policy 8B of the Adopted Local Plan supports replacement dwellings in the countryside provided that:

- (i) The form and bulk of the new dwelling does not substantially exceed that of the original;
- (ii) The design and materials are in keeping with the character of the surroundings;
- (iii) The new dwelling is on substantially the same site as the old; and
- (iv) There is no increase in the number of dwelling units.

In terms of the emerging Local Plan, Part 1, Policy BNE1 expects new development to be well designed and to follow a series of design principles, one of which is that it should respond to its context and have regard to valued landscape, townscape and heritage characteristics.

No pre-application discussions have taken place with the applicant or her architect therefore the Local Planning Authority, unlike the Threeways application, has not had an opportunity to provide any advice before the application was submitted.

A comparison of the plans indicates that there is some disparity between the existing and proposed dwellings in terms of form and bulk, which is to be expected when replacing a single storey dwelling with a property that would, to all intents and purposes, have the height of a two-storey residence. However, in this instance the difference in floor areas is not as great as one would expect. The existing bungalow has a gross floor area of some 107.5 square metres, with the replacement dwelling proposing a gross floor area of around 179.4 square metres – a difference of 71.9 square metres. Taking account of current (up to 2016) permitted development rights for rear single storey extensions, the existing floor area could be increased by at least an additional 1000 square metres (12.5m x 8m maximum) without the need for planning permission. Furthermore, a two-storey rear extension of 12.5m by 3m (maximum) could increase the floor area by 37.5 square metres, again without the need for planning permission. The difference then would be reduced to just 34.4 square metres. On this basis, therefore, it would be difficult to make a case for refusal on increased floor area alone.

In terms of bulk, the existing accommodation is neither particularly attractive nor capable of providing a unit of accommodation that would suit modern-day family living without extensive alterations, extensions and modernisation. Generally, it does not currently respect the local vernacular. The plot is of a generous size and consequently the proposed dwelling would be able to be sited well back into the site, which would reduce its visual impact on the street scene and surrounding area. In terms of design, the proposal would represent a good example of a building closer to the local vernacular and therefore would enhance the environment hereabouts.

As far as the remaining criteria of Policy H8 (B) are concerned, materials could be controlled by condition and criteria (iii) and (iv) have been met.

It is unlikely that there would be any adverse impact on neighbouring residents in terms of privacy and amenity owing to the existing distances. The proposal is therefore considered to be in accord with Saved Housing Policies 8 and 11, Policy BNE1 of the emerging Local Plan and the Housing Design and Layout SPG.

In terms of national policy the proposal would meet the guidelines within the NPPF, particularly with regard to the delivery of housing and the importance of good design.

Conclusion

Whilst the proposal may not fully conform to adopted Local Plan Saved Housing Policy 8 (B), there is an argument for approving the submitted scheme in that it would result in an improvement to the site and the surrounding area. The dated appearance of the existing building to some extent detracts from the character of the area, and there is an opportunity to improve on the existing substandard access. It is considered, therefore, that there would be some visual and highway safety gain from the proposal and a recommendation to approve the proposal is made accordingly.

Recommendation

GRANT permission subject to the following conditions:

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

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

2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the locality generally.

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

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

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

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

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

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

6. Prior to the occupation of the new dwelling the new access shall be formed to Coalpit Lane. The access shall have a minimum width of 3.25m, be laid out and constructed as a splayed vehicular crossover, in accordance with Derbyshire County Council's specifications and provided with 2.4m x 54m visibility sightlines, the area forward of which shall be cleared and maintained thereafter clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

7. Prior to the first occupation of the new dwelling, the existing access shall be closed to vehicular traffic with a permanent physical barrier, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of highway safety.
8. No gates shall be erected within 5m. of the highway boundary and any gates shall open inwards only.
Reason: In the interests of highway safety.
9. Prior to the occupation of the new dwelling the car parking and manoeuvring space shall be laid out in accordance with the application drawing and maintained throughout the life of the development free of any impediment to its designated use.
Reason: In the interests of highway safety.
10. Prior to the development hereby approved commencing, details of the finished floor levels of the dwelling hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).
Reason: To protect the amenities of adjoining properties and the locality generally.
11. Notwithstanding the submitted details, eaves and verges shall be brick and no fascia or barge boards shall be used.
Reason: In the interests of the appearance of the building(s) and the character of the area.
12. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
Reason: In the interests of the appearance of the building(s), and the character of the area.
13. Prior to the first occupation of the dwelling hereby permitted, the windows serving the bathrooms shall be permanently glazed in obscure glass.
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 533190 for further information.

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

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

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

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

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

Item 1.7

Reg. No. 9/2014/1184/TP

Applicant:
Mr Gary Prosser
10 High Street
Ticknall
Derby
DE73 7JH

Agent:
Mr Gary Prosser
10 High Street
Ticknall
Derby
DE73 7JH

Proposal: **THE FELLING OF A CORSICAN PINE TREE (T9)
COVERED BY SOUTH DERBYSHIRE DISTRICT
COUNCIL TREE PRESERVATION ORDER NUMBER 77
OF 1988 AT HARPUR LODGE 10 HIGH STREET
TICKNALL DERBY**

Ward: **REPTON**

Valid Date: **15/12/2014**

Reason for committee determination

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

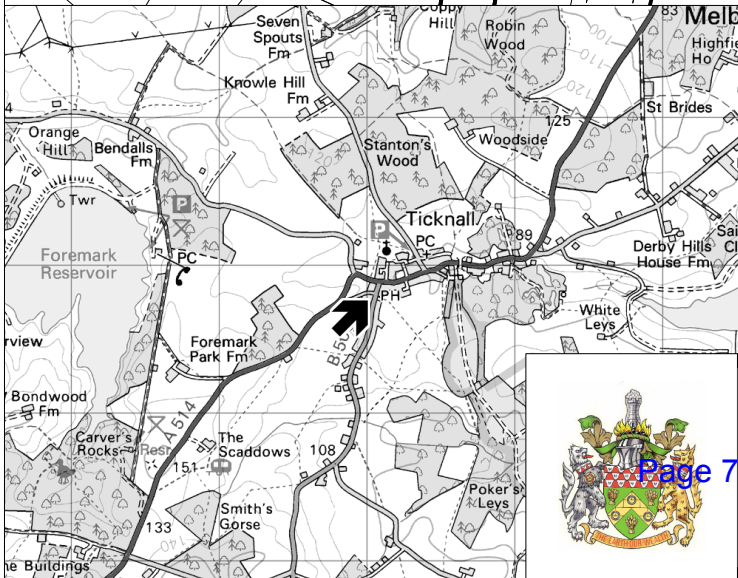
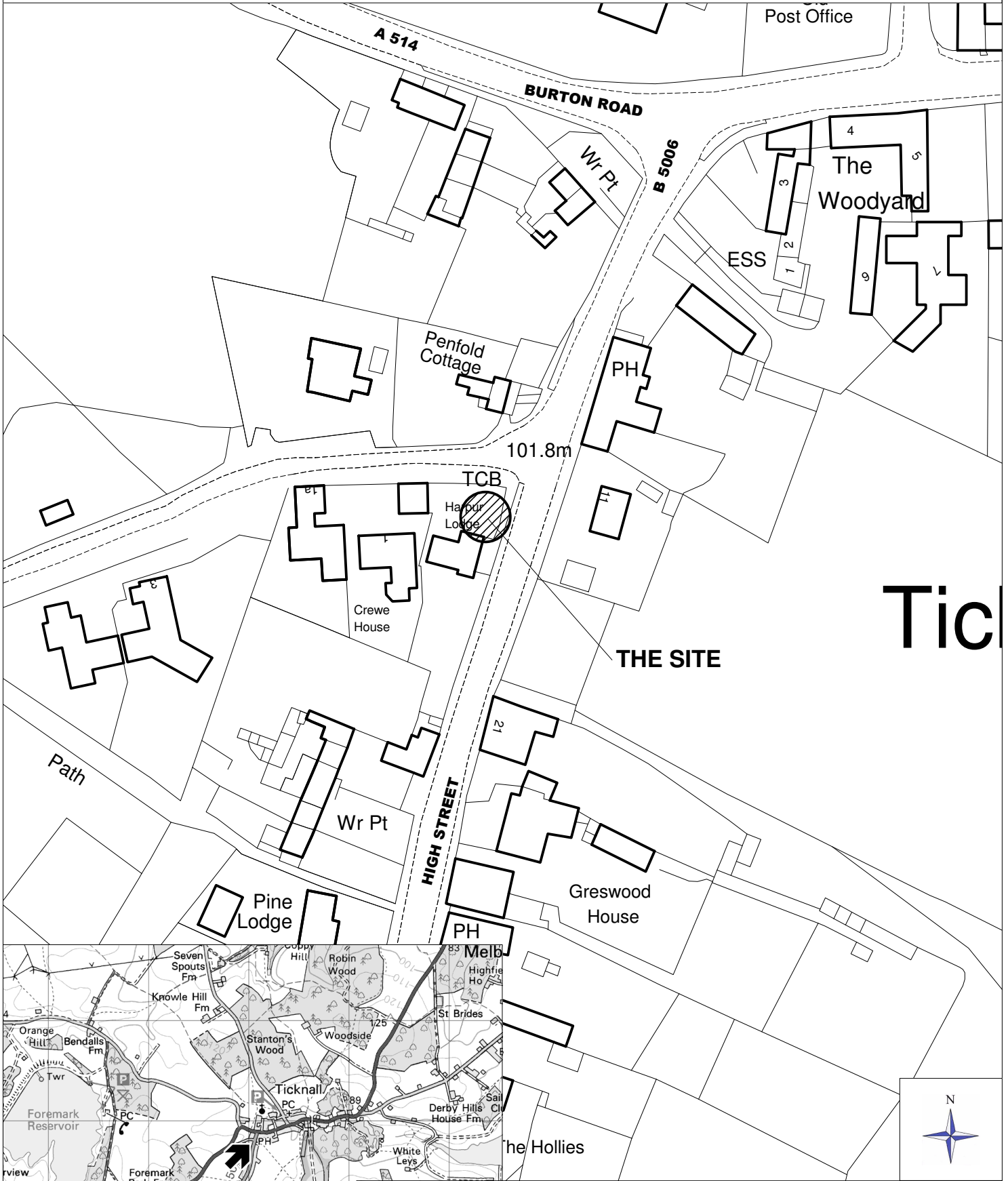
Site Description

The tree concerned (T9) stands on the corner of High Street and Narrow Lane. It stands elevated from the level of High Street beyond a recently repaired stone retaining wall. At its nearest, the tree is located around 1m from the edge of the retaining wall. That wall wraps around the northern tip of this ground, past a Grade II listed K9 telephone box, onto Narrow Lane and into the driveway of Harpur Lodge. To the immediate west are two new dwellings erected in the last 2 years. Harpur Lodge is a former stable building now converted and extended to form a dwelling and sits immediately to the south of the tree. A second Corsican pine stands to the south of Harpur Lodge (T7), whilst a third stands in the grounds of The Firs on the opposite side of High Street (T8).

Proposal

It is proposed to fell the tree to the north of Harpur Lodge (T9) on the grounds that recent works to convert the stables building and to provide for the new dwellings to the west have compromised the structural integrity of the tree and therefore its long term health.

Applicants' supporting information



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South Derbyshire District Council. LA 100019461. 2014

An Arboricultural Report is submitted in support of the application. This raises the following points:

- It is observed that the tree has reached full maturity, at a height of around 25m. Branches radiate out up to 8-9m. The trunk extends to around 4m before the first principal branch forms, which slightly overhangs the roof of Harpur Lodge. On the telephone box side, the first primary branch occurs at around 6.5m. Overall the crown architecture is relatively even with only a slight bias on High Street side in lee of the predominant south westerly winds.
- As is common with the species, the tree has suffered from fungal needle blight, retaining only needles produced in the last circa three growth seasons. Although there is not much peripheral branch dieback, the crown is considerably more porous than is considered optimal for the species, indicating reduced vigour. Furthermore, the crown density is worst within the western side of the crown. Throughout the crown there is a substantial accumulation of deadwood that has built up over many years. The largest dead branch is around 150mm in diameter by 4-5m in length and, as such, constitutes a potential hazard to pedestrians and vehicles using the highway.
- Tree stability is primarily achieved by the larger diameter roots binding together a sufficient counterweight of soil, which due to the load imposed by the tree above results in a high friction force acting on the surrounding soil, creating high shear strength that would need to be overcome in order for a tree to fail. In addition, anchorage is provided by roots extending into surrounding soil. In this regard roots principally work under tension. As the tree has a bias to the east and also has restrictions in its rooting ability and morphology in this direction due to the presence of the retaining wall and pavement and roadway with service corridors beneath; the tension side of the root plate, extending in a westerly direction within the elevated original garden area, is of the utmost importance.
- It is considered that the tree has suffered extensive negative impact to its root system during the redevelopment of the property. In the context of British Standards the Root Protection Area (RPA) would be the equivalent of a circle radiating some 11m from the centre of the trunk and would equate to an overall RPA of 375m². Prior to development of the dwellings on this site, the tree was able to root a considerable distance to the west towards the former bungalow.
- During a visit it was evident that upgraded or new underground services had been installed in very close proximity to the tree within the remaining elevated garden area to the north of Harpur Lodge. There are also indications that damp proofing had taken place on the northern gable wall of Harpur Lodge. The extent of the elevated area of garden extending in a westerly direction has also been curtailed by the formation of a drive perpendicular to Narrow Lane. Screen grabs from a video taken at the time of the works in October 2013, as well as a photo, are supplied showing concrete footings for the new stone wall to the side of the driveway, beyond which there is a substantial excavation to accommodate a large cylindrical concrete service chamber (now corresponding with an inspection chamber in the elevated garden). The video shows a further drainage pipe within what appears to be a part backfilled, yet open dug trench extending towards and slightly to the north of the trunk of T9. This again corresponds with an inspection

chamber at around 2.3m from the trunk with inlet level measured at around 1.5m beneath ground suggesting total excavation depth of around 2m. This underground service continues past the trunk and into the pavement on High Street. The footage also shows what appears to be a trench opened adjacent to the gable end of the barn. It is assumed that this was necessary in order to install the damp proofing measures and it is considered plausible that this extended for the full width of the gable end wall and would have been around 70cm in width to allow access. The video is also considered to demonstrate that the section of the current elevated garden extending was removed such that this area has been backfilled with material prior to the reinstatement of the garden.

- In total the remaining extent of the elevated ground forming the RPA of T9 that has not been subject to excavation has been shown in photograph 10. Including the section of landscaping border, this area amounts to only 30m².
- Typically the structural root plate for this size of tree would radiate around 4m from the base of the trunk. It is considered this area has seemingly been exposed to significant excavation down to around 1.5m to 2m beneath the original ground level. Unless the greatest of care was exercised, with the works being undertaken in accordance with detailed arboricultural advice resulting in the successful retention of significant roots bridging any trench, it appears inevitable that structural roots will have been severed or damaged. In addition the open excavation will have segmented the consolidated soil present within the structural root plate and the extent of retained rooting environment is also inadequate, especially given the restricted morphology of the rooting system. On the basis of the evidence provided and taking into account the very large size of the tree and the high hazard potential due to it overhanging the adjacent road and being within failing distance of residential properties, the tree is considered to pose an unacceptable risk to surrounding property and people. Its inherent safety factor is considered eroded to the point that there is a high risk of the tree failing during inclement weather.
- In arboricultural terms, it could not be recommended to substantially reduce the tree in order to reduce the loading as this would be entirely inappropriate given its intrinsic species characteristics.

The applicant has also supplied further photos to that in the above report along with the full video from which screen grabs were taken. Furthermore a brief summary of recent works undertaken in the highway by Western Power Distribution is provided, along with an accompanying services routing plan.

Planning History

- 9/2014/1184: The pruning of a Corsican pine tree (T9) covered by SDDC TPO 77 – Granted February 2015.
- 9/2012/0919: The demolition of the existing bungalow and the erection of two detached dwellings and garages – Granted March 2013
- 9/2012/0909: The erection of an extension and conversion of existing barn into a dwelling – Granted March 2013

- 9/2012/0006: Variation of condition of planning permission 9/2010/0839 to allow for the insertion of rooflights – Approved March 2012
- 9/2010/0839: Variation of condition to allow commencement prior to the approval of a Section 247 stopping-up order and to agree window details of planning permission 9/2010/0131 – Granted November 2010
- 9/2010/0131: The demolition of existing bungalow and the erection of two detached dwellings including refurbishment of existing stable building and associated access and parking – Granted May 2010
- 9/2010/0113: The felling of trees – No objection March 2010.

Responses to Consultations

None received.

Responses to Publicity

The Parish Council comments that if the tree is unsafe they do not object, but ask for a second opinion to the report provided. They also comment that if the tree is felled then the builder of the development should pay any costs to do the work due to his responsibility for care of the tree during building works.

Development Plan Policies

The relevant policies are:

- Saved policies of the Local Plan 1998: Environment Policies 9 and 12 (EV9 and EV12).

National Guidance

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

Local Guidance

- Ticknall Conservation Area Character Statement (CACS)

Planning Considerations

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

- The value of the tree and its contribution to the area
- The weight of the evidence provided
- Financial implications
- The balance between retention and felling

Planning Assessment

The value of the tree and its contribution to the area

The tree is one of many Corsican pines planted throughout Ticknall in 1876 to commemorate the wedding of Vauncey Harpur-Crewe and Isabel Adderley, and represented the passage of the bride and groom to their home following the church ceremony. Individually and collectively T9 affords a very high contribution to the visual and public amenities in the immediate vicinity, the Conservation Area and the wider village; especially given its historic significance. It is not surprising therefore that it warranted protection by way of a Tree Presentation Order (No. 77) in 1988 alongside 18 other Corsican pines along High Street, Main Street and Chapel Street.

The Corsican pine, along with its remaining counterparts, is a strong and impressive feature of Ticknall. It plays an important role in setting the character of the Conservation Area, with the CACS highlighting both historic tree planting by the Calke estate and recent tree planting under the National Forest Scheme giving dense tree-cover is important to the setting of the village and a backdrop to some important views, while evergreen trees (mature Yew and Corsican Pine) provide year-round interest. With appropriate consent, two of the six Corsican pines along this part of High Street have already been lost whilst two further Corsican pines on Main Street have also been removed. Consequently further loss of these significant trees should only be justified in exceptional circumstances.

The weight of the evidence provided

Based on topographical surveys provided with the various applications the former available rooting area was approximately 134m² (measured within the former garden only and not accounting for rooting area under and beyond the retaining wall towards the highway). The approved development allowed this to reduce to 102m² but the layout was not such that access for construction or installation of services required significant intervention into the priority rooting area (i.e. that immediately west and north of the trunk). Nevertheless conditions were attached to require prior approval of tree protection measures followed by their erection and retention throughout, along with no storage of materials within this protection zone. Details were submitted and approved under the condition in May 2013. However the photographic evidence is clear that even if this protection was implemented, it had been removed to facilitate the construction of the dwelling and installation of services. Approximate estimates from the photographs supplied indicates only some 69m² of rooting space within the garden remained, and whilst the Arboricultural Report suggests this is even less (some 30m²) the evidence does not show the claimed "cutting off" across the north of the trunk with the inspection chamber at the limit of the trench. This is not surprising given the drain and inspection chamber sit on the line of a sewer from the former bungalow and it is thus not unreasonable to conclude the sewer from that point towards High Street was reused.

Notwithstanding the above, tree roots tend to grow in a radial pattern such that if a perpendicular interruption is created, roots beyond this line to the outer limits of the RPA fail. Taking the above calculations further this reduces the remaining active rooting area within the garden to 60m². The evidence also shows a considerable amount of stone piled atop of the remaining rooting area, and the Tree Officer, having made a full assessment of the case, advises that even a week under such conditions can cause roots to suffocate and die.

On the balance of the evidence before the Council it is considered that the long term health of the tree has been compromised. The shallow more fibrous roots provide for

the tree's nutrients. With these either severed or compacted, the tree faces a difficult future in trying to sustain its physiological condition – especially given it is a tree at full maturity. The Tree Officer expects clear signs of stress and dieback to occur within the next 12 to 18 months and that within 4 to 5 years it will likely be all but dead.

Nevertheless this is not considered to be sufficient to warrant removal of the tree at this point in time, with the continued public amenity afforded over the next 4 to 5 years (or more maybe) and retention of a historical asset clearly outweighing the inconvenience of increased needle drop and a managed approach to its dieback through deadwooding and pruning. For removal to be warranted at this point in time there must be no doubt that the structural integrity of the tree has been comprised so greatly that it poses a very real danger to life and/or property in the immediate future. This is comparable to the very high test set out in the 2012 Tree Regulations for the removal of dangerous trees without having to first obtain the Council's consent.

Generally the structural root plate for this size of tree would radiate around 4m from the base of the trunk. These roots act as the anchor for the tree. Whilst the garden area has seemingly been exposed to excavation to a depth of around 1.5m to 2m beneath the original ground level, when plotted it does not appear that such excavations have materially encroached into this structural RPA. Even then there is no firm evidence that trenches which do encroach (for the drainage chamber and damp proofing) have been dug without due care and awareness for such roots. However the open excavation will have segmented the consolidated soil present within the structural root plate. When combined with the loss of shallower lateral roots, which extend further but also provide some structural stability, it is considered the tree may start to act like the cork in a bottle – with lateral movement eventually working that “cork” free. Hence the evidence does not conclusively point to an immediate risk of failure, but on balance it is likely that as time progresses the anchoring roots will become less and less able to hold the tree in place.

Financial implications

If consent is refused and a loss or damage arises (for instance if the tree fails and interferes with life or property), a claim for compensation can be made against the Council. A claim for compensation must be made within 12 months of the refusal. Any claimant who can establish that they have suffered loss or damage as a result of a refusal is entitled to claim compensation greater than £500. However the Council's liability is limited. Compensation is not payable for any:

- loss or damage which was reasonably foreseeable by that person and attributable to that person's failure to take reasonable steps to avert the loss or damage or mitigate its extent;
- loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused;
- loss of development value or other diminution in the value of land; and/or
- costs incurred in making an Appeal against the refusal of consent.

The first limitation will depend on fact and degree and what evidence and actions (or lack of) the landowner takes between the refusal and any loss or damage (and indeed what involvement the Council might have in response to new evidence or action). For instance if a limb fails but is left to hang for a number of weeks before falling, it could be

argued that the landowner could have taken reasonable steps to avert the loss or damage. The second limitation hinges on this assessment and the Arboricultural Report. It is important to note that any claim will look at what was reasonably foreseeable at the time of the decision, and Members may wish to consider this in balancing the matters before them. The latter two limitations are quite common place in the planning system and are of little concern in reaching a view here.

The balance between retention and felling

Retention of the tree is the primary objective for any tree protected by a TPO – certainly so in this case due to its contribution to visual amenity, the Conservation Area and the history of the village. There is thus significant weight in favour of retention such that for felling to be justified, the case should be compelling and Members should be confident in their decision. Members should also set aside any views on whether to pursue enforcement action to address any breach of planning control prior to this application.

As outlined above it is not disputed that the health of the tree has been compromised and that even if a refusal is to be given, a similar application will most likely be made in 4 or 5 years – if the “dead tree exemption” of the Tree Regulations has not already been exercised to secure its removal. It is the structural integrity of the tree to which the evidence falls short at the present time. The photographic and video evidence does not show any evidence of exposed or severed structural roots, and their reach from the trunk is limited such that the excavations undertaken may well have avoided giving a fatal blow. Nevertheless the shallower roots have been severed and compromised to a considerable degree such that the tree will likely become more and more unstable through repeated movement under wind loading. Following advice from the Tree Officer, there are no known remedial or stabilising works which could now succeed given the size of the tree, the limited room and elevated conditions of the primary rooting area.

As a result of the above balancing exercise, coupled with the likely significance of any compensation claim which could be brought against the Council, it is considered that on this occasion the limited lifespan of the tree and potential financial implications in the case of unexpected failure in the next 12 months are sufficient to support the loss of the tree now, as opposed to securing what is likely to be just a few more years contribution to public amenity and historical interest. Ultimately any removal will need to be compensated with a suitable replacement tree which can, over time, restore this loss.

Recommendation

GRANT consent to fell subject to the following conditions:

1. The work hereby approved shall be carried out within two years of the date of this consent.

Reason: To conform with Regulation 17(4) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the local planning authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

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

Reason: To safeguard the health of adjacent retained tree(s).

3. Two weeks prior notice of the date on which the work is intended to be carried out shall be given to the local planning authority in order that an officer can arrange to be on site prior to the work commencing.

Reason: To enable the local planning authority to document the removal of the tree and to better determine a suitable location and species for replacement.

4. A replacement tree shall be planted in the first available planting season after the works have been carried out, of a species, size and maturity and in a location which have first been approved in writing by the Local Planning Authority. Should that tree become diseased, be removed or die within 5 years of planting an equivalent tree shall be planted and retained for at least the same period.

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

Informatives:

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

Item 2.1

Reg. No. 9/2014/0646/U

Applicant:
Mr Akram Basharat
18 Bridgeside Way
Spondon
Derby
DE21 7SH

Agent:
Mr Akram Basharat
18 Bridgeside Way
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Derby
DE21 7SH

Proposal: **THE CHANGE OF USE OF PART OF CAR PARK TO A CAR WASH AREA AND SITING OF STORAGE BUILDING, INSTALLATION OF CANOPY PLUS ASSOCIATED WORKS AND EQUIPMENT, AND THE CREATION OF A NEW VECHICULAR ACCESS TO UTTOXETER ROAD AT SUNAR GOW UTTOXETER ROAD HATTON DERBY**

Ward: **HATTON**

Valid Date: **28/07/2014**

Reason for committee determination

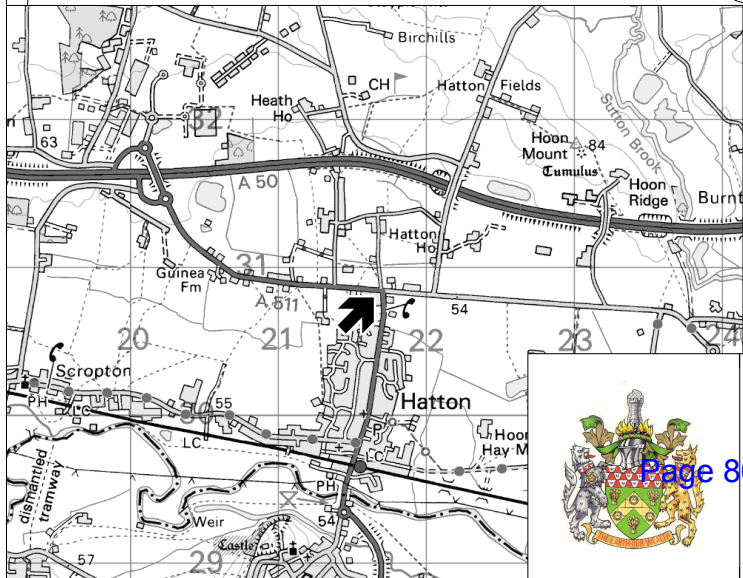
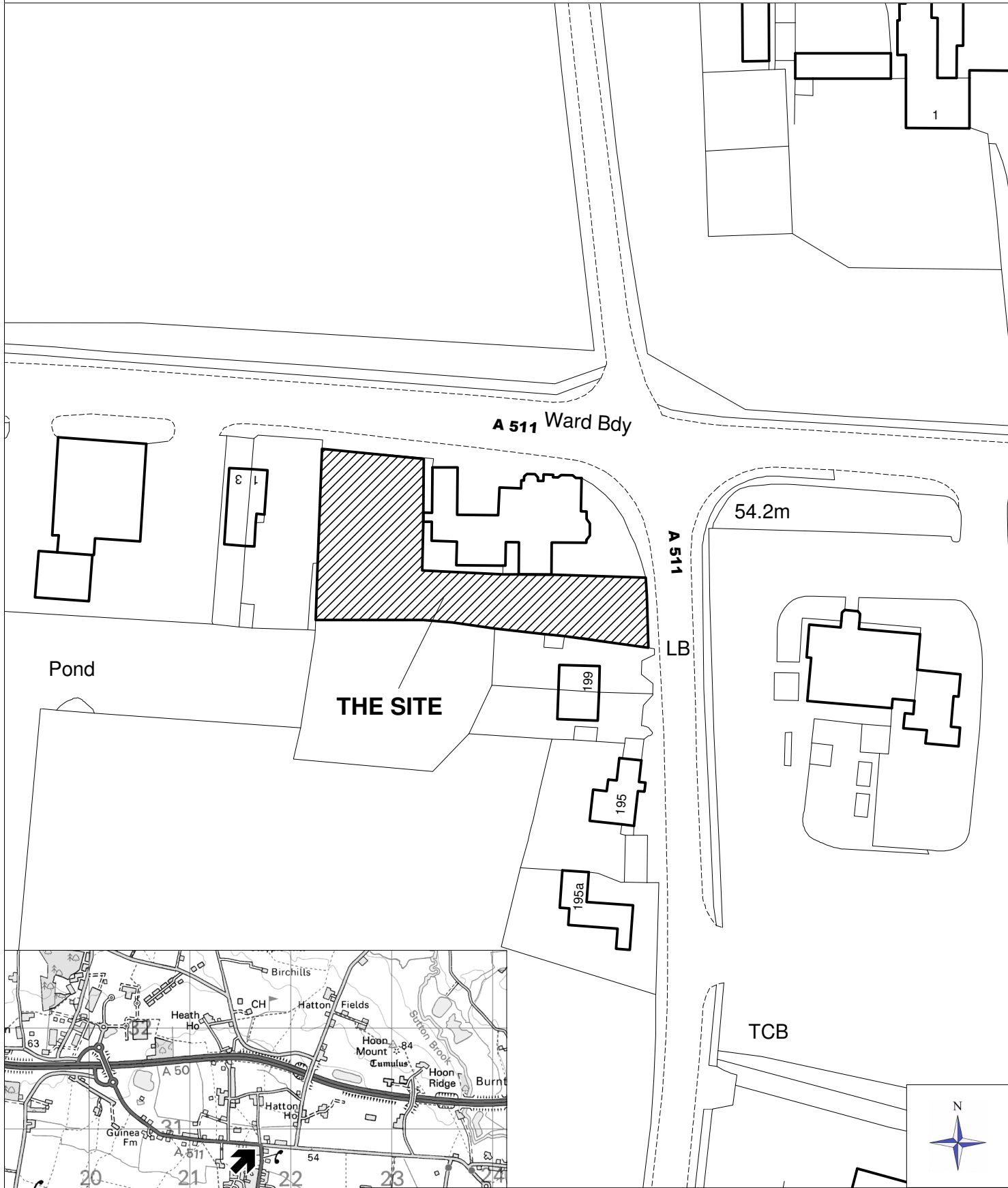
The application is reported to Committee at the request of Councillor Roberts because local concern has been expressed about a particular issue.

Site Description

The application site lies within the open countryside, albeit with buildings to the east, west and partly to the south and is part of the car park that serves the Sunar Gow restaurant which is located at the traffic light controlled junction of Uttoxeter Road/Derby Road/Station Road. The land the subject of the application lies immediately adjacent to the garden of number 1 Uttoxeter Road, which shares the western boundary of the site and consists of a close boarded fence, and to the southern boundary lies a further residential property, number 199 Station Road which is also separated from the site by a close boarded fence.

Proposal

The application is in full and is to change the use of part of the car park to operate a car washing facility consisting of a washing bay, storage unit and canopy cover and to create a new access/egress to Uttoxeter Road immediately adjacent to the west of the Sunar Gow restaurant building, whilst retaining the access/egress from Station Road. The proposal is the relocation of an existing business from a nearby site which is also in



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the countryside although it is claimed that the business is being displaced by the potential housing development on the site at and surrounding the Salt Box Café, across Station Road.

Planning History

None relevant.

Responses to Consultations

The County Highway Authority has no objection to the proposal subject to a condition relating to visibility splays being provided and maintained to Uttoxeter Road.

The Environmental Health Officer objects to the proposal stating that he is concerned with regards to the noise impact on neighbours and the overspray and the impact on their residential amenity.

The Contaminated Land Officer has no comments to make.

Severn Trent Water has no objection to the proposal subject to a condition relating to the submission of surface and foul water drainage.

The Environment Agency has no comment to make since the use is acceptable in principle and whilst the site is on a secondary aquifer drainage would be to mains foul sewer.

Responses to Publicity

14 letters of objection received which can be summarised by the following points:

- a) There is already a hand car wash at the Service Station creating noise from cleaners, jet washers, and cars especially at weekends – we do not need any more.
- b) Spray will blow over the neighbours washing lines.
- c) Drainage struggles even at present after heavy rain.
- d) The proposed access is close to the traffic lights and will cause problems.
- e) Is there a need for three car washes?
- f) Noise from industrial pressure washers, vacuum cleaners, doors slamming, music in cars close to my boundary will have a negative impact on my quality of life.
- g) An Environmental Impact Assessment should be undertaken from our garden.
- h) It will be a statutory noise nuisance.
- i) Spray may cause skin conditions, wet washing and mean we cannot enjoy our garden.
- j) Our garden flood already in winter as it is lower and this will increase that issue.
- k) We have rights of access to the drains.
- l) Severn Trent Water may need to issue a consent for this to discharge to the drain.
- m) The container will have an unpleasant appearance and brings the possibility of vandalism closer to our property.
- n) The road and junction are very busy with speeding vehicles – the new access will be dangerous.

- o) Lighting will be required but no mention is made of it.
- p) The one at the Service Station was relocated due to neighbour impact but the proposed one would be even closer to us than that was to our neighbour.
- q) The existing car washes create noise and pollution.
- r) It would create a rat-run through the traffic light junction.
- s) Hazardous chemicals will be used and discharged to the sewer.
- t) The airborne chemicals will affect my children.
- u) When it rains the field behind our property gets water logged with surface water on the car park and roads.
- v) We should have been consulted.
- w) It is not a hand car wash as it uses machines.
- x) Inadequate parking will be retained for the restaurant.
- y) The chemicals will impact on ecology.
- z) The hours of operation means no respite for neighbours.
- aa) The applicant's existing business at the Salt Box cleans caravans and commercial vehicles.
- bb) We are an established car wash 50 yards away and it will affect our business.
- cc) Surely a separate water drainage system should be used?
- dd) It brings industry closer to residential.

Hatton Parish Council objects to the proposal as it would be a dangerous exit to Uttoxeter Road, it will be an invasion of privacy for neighbours and environmental concerns re: spray, noise and airborne spray when cleaning.

Development Plan Policies

The relevant policies are:

Adopted Local Plan: Employment Policy 5, Environment Policy 1, Environment Policy 2, Transport Policy 6

Emerging Local Plan: Policies S2, S6, E2, SD1, SD2, SD3, BNE1, INF2.

National Guidance

National Planning Policy Framework (NPPF), in particular:

- Paras 6-10 (Achieving sustainable development)
- Paras 11-14 (The presumption in favour of sustainable development)
- Para 17 (Core principles)
- Chapter 4 (Promoting sustainable transport)
- Chapter 7 (Requiring good design)
- Paras 186 & 187 (Decision-taking)
- Para 196 & 197 (Determining applications)
- Paras 203-206 (Planning conditions and obligations)

Annex1 (Implementation)

The National Planning Practice Guidance (NPPG)

Planning Considerations

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

- The principle of the development,
- Flood risk,
- Impact of the proposal on highway safety,
- Impact on the amenity of residents, and
- Impact on the character and appearance of the area.

Planning Assessment

The principle of the development

The application site lies beyond the village boundary for Hatton, in an area of open countryside. Saved Employment Policy E5 states that small industrial development within or on the edge of villages will be permitted if it is compatible in terms of scale and character with the settlement and is acceptable on environmental grounds. Whilst the proposal would constitute a small industrial type use in such a location the issue is whether there would be any environmental traffic issues which would render the proposal contrary to this policy. These matters are discussed below and they conclude that whilst acceptable in highway safety terms, in terms of environmental issues the proposal would have an undue impact on the amenity of neighbours and in design terms. Accordingly the proposal is considered to be contrary to Saved Employment Policy E5.

Saved Environment Policy 1 of the adopted Local Plan states that outside settlements boundaries new development will not be permitted unless it is essential to a rural based activity or unavoidable in the countryside and the character of the countryside, landscape quality, wildlife and within a small group of houses/businesses. The proposal would introduce a further business onto the site that has no interrelationship to the existing restaurant business and there is no evidence to demonstrate that this countryside location is the only option available to them in terms of location. Whilst it is noted that the proposal is the relocation of an existing business from a nearby site which is also in the countryside although it is claimed that the business is being displaced by the potential housing development on the site at and surrounding the Salt Box Café, across Station Road. Nevertheless, no evidence has been submitted to demonstrate that alternative sites have been explored therefore on the basis of the information submitted the proposal constitutes development that would be contrary to the requirements of Saved Environment Policy 1 of the Local Plan.

Flood risk

The site is in an area that is designated as Flood Zone 3 as shown on the Environment Agency flood maps, it benefits from the recently improved flood defences. Local Plan Policy EV2 states that, amongst other things, new development must not exacerbate existing flooding problems or create new ones. It is noted that no objection to this use in flooding terms is put forward by the Environment Agency, or indeed Severn Trent Water as the water would discharge to an existing sewer, but nevertheless there is still a requirement to consider flood risk. The NPPF at Para. 100 states that *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.”* In terms of impacts of flood water on the

development as well as in terms of the potential to increase flooding problems that exist there is no evidence that this would be the case. As the water used in the business would be discharged to an existing sewer and Severn Trent Water have control over such discharge, in flood risk terms the proposal is considered to be acceptable in flood risk terms.

Impact of the proposal on highway safety

Local Plan Transport Policy 6 states that planning permission will not be granted for development which interferes with the free and safe flow of traffic and that policy is relevant as it echoes the NPPF at paragraph 32 which states, amongst other things, that safe and suitable access to the site can be achieved for all people; and development should only be prevented or refused on transport grounds where the impacts of development are severe. The application site is immediately adjacent to a very busy junction with roads which are the main routes through the area and as such highway safety is of paramount importance. In order to come to a view on this matter the County Highway Authority were consulted on the proposals and in their reply they have stated that subject to a condition relating to the provision and retention of parking and the maintenance of a visibility splay to Uttoxeter Road, they raise no objection to the proposal. In light of this it is considered that the proposal would not be detrimental to the best interests of highway safety and as such in these terms that aspect of the proposal is considered to be acceptable.

Impact on the amenity of residents

One of the core principles of the NPPF as set out in Para. 17, is to *“always seek to secure... a good standard of amenity for all existing and future occupants of land and buildings”*. The nature of the business is such that it would generate noise due to the movement of vehicles, employee/customer interaction, the use of machines and would create spray. These grounds have formed the basis for a significant number of objections from members of the public and it is noted that the proposed opening hours are 09:00 to 18:00 Mondays to Saturday and 09:00 to 17:00 on Sundays and Bank Holidays. In order to assess whether the adverse impacts of the proposal would be at a level that would be unreasonable given the close proximity of the residential properties to the west and south of the application site, the views of the Council’s Environmental Health Officer were sought. In their reply he has stated that in regards to the noise impact on neighbours and the overspray and the impact on their residential amenity and objects accordingly. The comments contained in the letters of objection are noted as is the noise from the existing car park, but it is considered that notwithstanding this the introduction of an unconnected use which would result in additional noise and disturbance that in terms of amenity is considered to be unacceptable and the impact is considered to reasonably justify refusal of the application.

Impact on the character and appearance of the area.

The NPPF at paragraph 64 states that permission should be refused for development of poor design that fails to take opportunities for improving character and quality of an area. It is also noted that paragraph 60 of the NPPF states that decisions should not try and impose architectural styles or particular tastes and not stifle innovation, originality or initiative local distinctiveness should be promoted. It is also acknowledged that there are differing styles of property in the area but that the existing restaurant is of a traditional two store form, as are the immediate residential properties. In this case the proposed

siting, size and design of the proposed canopy, storage unit and other paraphernalia, relative to the surroundings, would create an unacceptable form of development that would be detrimental to the overall visual amenity of the area and constitute an alien addition to the streetscene. Whilst a similar operation exists nearby at the service station to the west and the current operation at the Salt Box Café will be relocated here it is less prominent and relates to different surroundings. The development must be assessed on the basis of the immediate location and it is considered that on balance design is considered to be justification to refuse the application.

Other matters

With regards to other matters that have not been covered above, competition in itself is not a reason to justify refusal; an Environmental Impact Assessment (EIA) is required for this development; access to drains is a private matter or for Severn Trent Water; lighting could be subject to a condition, if minded to approve; appropriate publicity has been undertaken.

Conclusion

Whilst the relocation of the business and associated employment are noted it is considered that the adverse impacts in terms of the countryside, visual amenity and residential amenity outweigh those benefits and as such the proposal represents an unsuitable form of development.

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 application site lies in the open countryside, beyond any settlement boundary, as defined by the South Derbyshire Local Plan. Saved Environment Policy EV1 of the adopted Local Plan states that outside settlements boundaries new development will not be permitted unless it is essential to a rural based activity or unavoidable in the countryside and the character of the countryside, landscape quality, wildlife are safeguarded. Furthermore, one of the core planning principles in paragraph 17 of the National Planning Policy Framework (NPPF) is to recognise the intrinsic character and beauty of the countryside. The proposal would introduce a further business onto the site that has no interrelationship to the existing restaurant business and there is no evidence to demonstrate that this countryside location is the only or most appropriate option available, or that special circumstances exist to otherwise justify the proposal. Saved Employment Policy E5 states that small industrial development within or on the edge of villages will be permitted if it is compatible in terms of scale and character with the settlement and is acceptable on environmental grounds. In this case the harm in terms of visual and residential amenity resulting from the development renders the proposal contrary to Employment Policy 5. As such on the basis of the information submitted the proposal is contrary to South Derbyshire Local Plan Saved Environment Policy EV1, and the core planning

principle in paragraph 17 of the NPPF which is to recognise the intrinsic character and beauty of the countryside and Saved Employment Policy E5.

2. One of the core principles of the NPPF as set out in Para. 17, is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. The nature of the proposed business is such that it will generate significant levels of noise due to the movement and cleaning of vehicles, employee/customer interaction and the use of machines, as well as spray resulting from washing activities, which would have an undue impact on the amenity that the occupiers of the adjacent properties could reasonably expect to enjoy contrary to the guidance contained in the National Planning Policy Framework (NPPF) at Para. 17.
3. Paragraph 64 of the National Planning Policy Framework (NPPF) states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. This is complemented by Saved Environment Policy 1 which retains consistency with the NPPF. The positioning, overall scale, height and mass of the proposed canopy, storage unit and other paraphernalia, in this case, creates an unacceptable and alien addition to the streetscene that would be detrimental to the overall visual amenity of the area. Whilst paragraph 60 of the NPPF states that decisions should not try and impose architectural styles or particular tastes and not stifle innovation, originality or initiative local distinctiveness should be promoted in this case the siting and design of proposals neither constitutes innovation or originality neither does it reflect the character of this setting or the other buildings adjacent to the site. Whilst being different in itself is not necessarily objectionable in itself, it is considered that in this case, the difference would be out of keeping and would be detrimental to the visual amenity of the area. As such the proposal is contrary to South Derbyshire Local Plan Saved Environment Policy 1, supported by Paragraphs 55 & 64 of the NPPF and its core planning principle in paragraph 17 to recognise the intrinsic character and beauty of the countryside.

Informatives:

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