

REPORT OF THE HEAD 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) and responses to County Matters.

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

1. The issues of fact raised by the Head of 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 Head of Community and Planning Services, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Item 1.1

Reg. No. 9/2010/0468/O

Applicant:

Mr John Poultney
J. W. Poultney & Son
Gunby Farm
Gunby Hill
Netherseal
Swadlincote

Agent:

Mr Scott Wilcox
S & S Architecture Ltd
21 Hackett Close
Ashby De La Zouch

Proposal: **OUTLINE APPLICATION ALL MATTERS RESERVED
FOR FARM DIVERSIFICATION TO CHANGE USE OF
PART AGRICULTURAL FIELD AREA TO PROVIDE 8
LOG CABIN STYLE HOLIDAY LETS WITH PARKING AT
GUNBY HILL NETHERSEAL SWADLINCOTE**

Ward: **SEALES**

Valid Date: **25/05/2010**

Reason for committee determination

The application is brought to Committee at the request of Councillor Grant because local concern has been raised about a particular issue.

Site Description

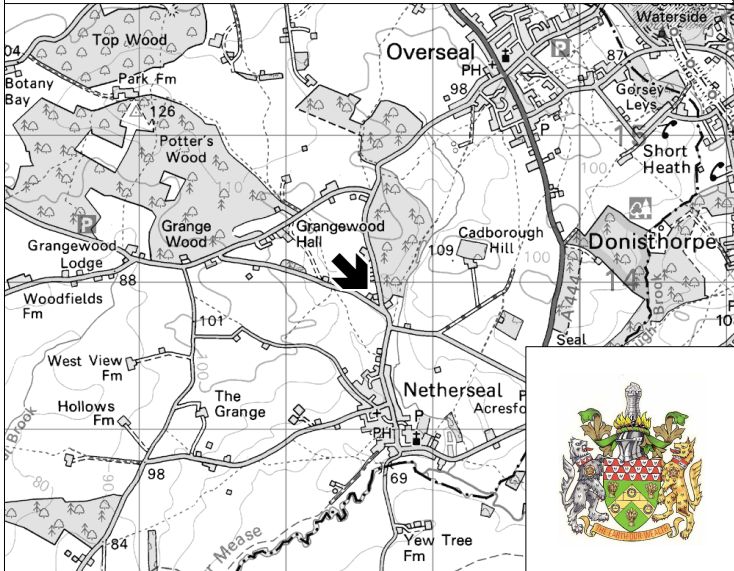
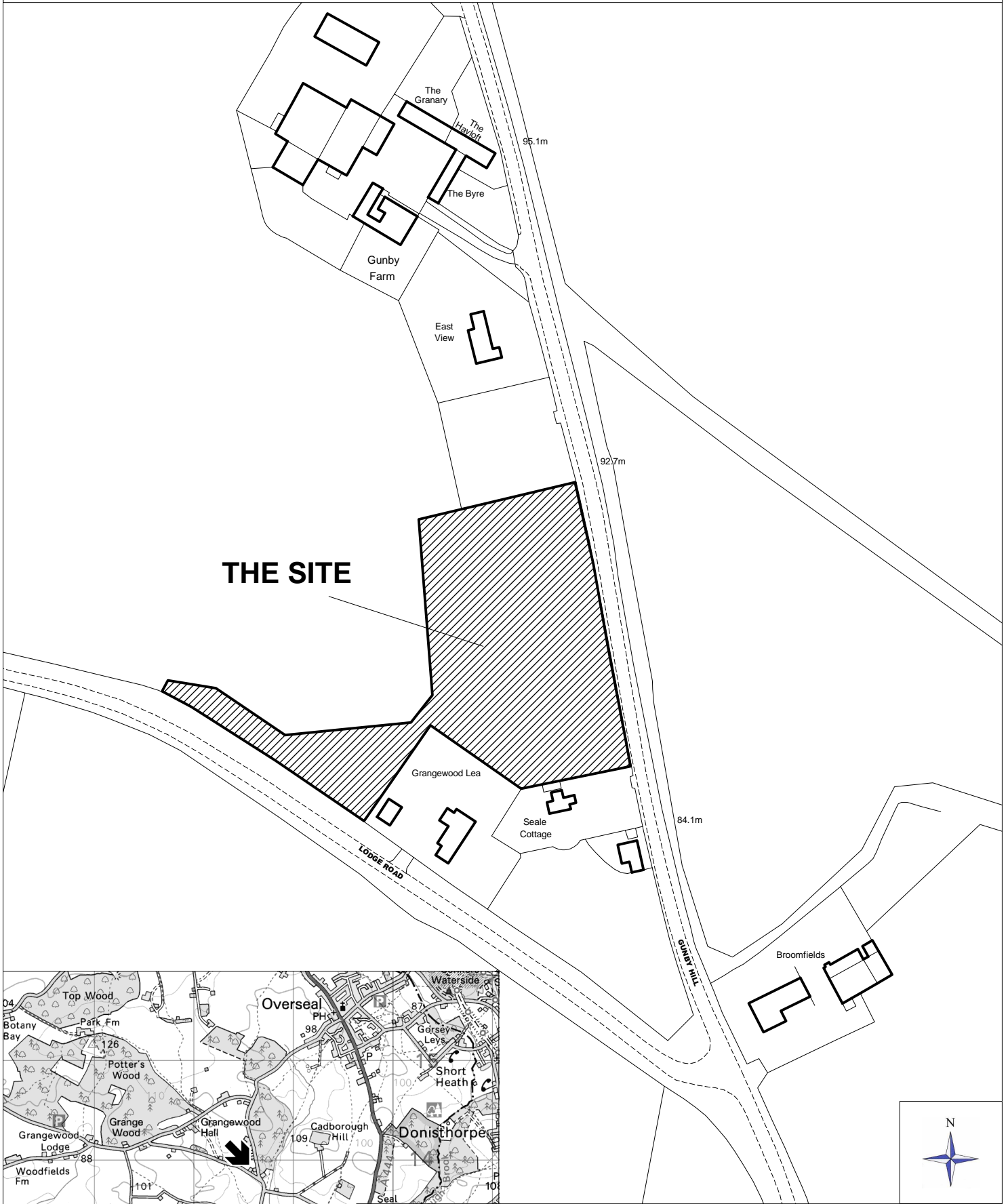
The site lies in open countryside about 900 m to the north of the centre of the village. It slopes to the south and west and is clearly visible from Lodge Lane and Public Footpath No 6 to the west. More limited views are available from Gunby Hill. There are two dwellings adjacent to the southern boundary of the site. Another property, 'Sandhurst', abutting the northern boundary, has recently been demolished. Permission exists to replace it with a new two-storey dwellinghouse. East View and Gunby Farm complete the group of buildings in the immediate locality.

A hedge defines the eastern boundary with Gunby Hill. The western boundary is undefined, the site presently forming part of a larger field.

The nearest surfaced footways into the village starts at the junction of Gunby Hill/Main Street with Gorsey Lane, where there is also a bus stop. There is an hourly bus service (Arriva no. 3) from Monday to Saturday. There is evidence of pedestrian desire lines in the wide grass verge between Lodge Lane and Gorsey Lane.

The local landscape is rolling fields defined by hedges and trees and the site lies within the National Forest.

9/2010/0468 - Gunby Hill, Netherseal, Swadlincote DE12 8AS



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Proposal

The proposal is in outline, although an indicative layout shows 8 log cabin structures, arranged in a crescent, filling the gap between Sandhurst to the north and Seale Cottage and Grangewood Lea to the south. The Design and Access Statement indicates eaves heights of 2.7 m and 4.2 m to the ridge. The vehicular access would be located on Lodge Road, some 95 m to the west of the boundary with Grangewood Lea.

Applicants' supporting information

The main points in the Design and Access Statement are:

- The locality is served by public transport.
- It is within 5 miles of the M/A42, offering excellent transport links to national road network.
- The site is close to tourist attractions.
- Due to increased pressure on farming Gunby Farm has been the subject of previous diversification, providing lettings to local businesses. In order to maintain the applicant's family business, diversification is essential and the proposal would facilitate continued employment and some new jobs. Nevertheless the applicant relies on the proposal being in accord with local and national planning policies.
- Other local business would benefit from visitors to the facility.
- There is a need for tourist accommodation in the National Forest.
- EMDA has endorsed the proposal and may provide funding.
- Sustainable design principles would be employed.
- Landscaping would be undertaken to help assimilate the development in its wider setting and to maintain adequate privacy.
- The proposal is of a similar nature to other tourist related development permitted in the district.

An Impact Statement has also been supplied in respect of the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI):

- The main potential impact is foul drainage.
- A package plant is proposed and the Environment Agency has indicated that such a method of sewerage disposal would be acceptable subject to conditions.

An ecology survey has been carried out which concludes that no water vole habitat would be affected.

Planning History

There are no previous applications affecting this particular site, although outbuildings at Gunby Farm have been converted to residential and there are business units, with the latter remaining under the applicant's control.

Responses to Consultations

The Parish Council objects for the following reasons:

- a) The site is in a prominent location and would be highly visible. Landscaping would take several years to grow.
- b) Lighting would have an adverse effect on the countryside, particularly in the autumn and winter.
- c) It is likely that sewerage would lead to contamination of the brook and the River Mease SAC.
- d) There would be noise disturbance to neighbours.
- e) Pedestrian access to Gunby Hill would be unsafe and Lodge Road carries fast moving traffic.
- f) The proposal does not represent farm diversification.
- g) The development would become permanent dwellings as has apparently happened elsewhere in the local area. A precedent could be set for such schemes.
- h) There appears to be no provision for visitors and staff.
- i) The development would not blend in with its surroundings.
- j) The Committee should make a site visit to appreciate the impact of the development.

The Highway Authority comments that the usual requirements for an access to an unrestricted road are 2.4m x 215m visibility splays, and forward visibility of the 215m, which cannot be achieved. Following revisions to the access, and having regard to speed readings, the Authority does not object in principle. However it wishes to see no pedestrian access onto Gunby Hill in the interest of safety.

Severn Trent Water Ltd has no objection in principle.

Derbyshire Wildlife Trust concludes that:

- a) The proposed development is unlikely to have any substantive ecological impact.
- b) There would be loss of a small section of species rich hedgerow (UK BAP Habitat). However, this loss would be fully compensated for by the creation of a new species rich hedgerow on the west side of the development.
- c) Other proposed landscaping would create habitats of greater value for wildlife than the current intensive agricultural use of the land.

The Trust also comments that subject to the Environment Agency's recommendations regarding sewerage treatment and water discharge into the River Mease catchment, the proposal is unlikely to have any impact on this designated SAC and SSSI.

On initial consultation Natural England responded with an objection because the application did not provide sufficient information to assess its implications on the European sites nor for the Local Planning Authority to ascertain that the proposal would not adversely affect the integrity of the site. However in the light of ongoing discussion with the Environment Agency, Natural England is now satisfied that the development would be unlikely to have a significant effect on the SAC. This view also takes account of the need for a permit from the Environment Agency to discharge the treated waste water, or confirmation from the Environment Agency that the discharge is exempt from such requirement. Natural England requests that the applicant is required to maintain the treatment plant and soakaway by legal agreement to ensure the long term protection of the SAC.

The Environment Agency does not object but comments that development would only be acceptable subject to conditions to ensure that the sewerage and sewage disposal systems serving the development are effective at this location without causing pollution to controlled waters, the Mease being an ultra sensitive watercourse which is both a SSSI and a SAC, a European designation of the highest standing. The Agency further advises that separate control over discharges would be imposed through its permit system. This system would also enable the Agency to control phosphate levels from the package treatment plant.

The Economic Development Officer confirms that the development would meet an acknowledged need for tourism accommodation in the National Forest.

Responses to Publicity

159 letters of objection (some of which are detailed and available for viewing on the application file) have been received, raising the following issues:

- a) The development would have a harmful impact on the character and appearance of the countryside. The site slopes and is visually prominent.
- b) Changes of use at Gunby Farm have led to harmful visual, environmental and traffic impacts. Landscaping has been ineffective.
- c) The proposed development would result in harmful loss of privacy and outlook to neighbouring dwellings.
- d) There would be noise (in conflict with PPS24), smells, light pollution and increased risk of crime.
- e) Sewerage from the development would result in damage to the ecology of the River Mease European Special Area of Conservation and SSSI, in particular from discharge of excessive phosphate levels. The applicant has not provided the necessary information to enable an appropriate assessment to be undertaken. The evidence that has been supplied is factually inaccurate and misrepresentative of the conservation issues. Using the flowchart in Circular 06/2005 the development cannot be permitted.
- f) The proposed treatment plant would be reliant upon specialist chemical dosage, which would be unreliable.
- g) There may be harm to Great Crested Newt and Water Vole habitat.
- h) There would be an increase in carbon emissions, from the build phase and subsequent operation.
- i) Any access onto Gunby Hill, which is narrow, would be dangerous.
- j) The proposed access on to Lodge Road fails to provide adequate visibility, having regard to vehicle speeds along the road. Speed surveys by the applicant are not representative of the actual situation.
- k) The use of Lodge Road by pedestrians would be dangerous.
- l) 3 accidents in Lodge Road, resulting in fatalities, have been reported locally.
- m) The topography of the site and the lack of footways on the highways would preclude access by the elderly, disabled, children and those with impaired mobility, failing to satisfy PPS1's requirement for social inclusion.
- n) The proposal would not be a sustainable business, would not improve quality of life for residents and existing visitors, or result in social progress and would not protect the environment; contrary to the sustainability objectives of PPS1.
- o) Existing holiday homes have poor occupancy rates and the proposal would lead to further dilution in this regard.

- p) The proposal does not represent a farm diversification project, as it is understood that the applicant does not operate a significant farm business. Therefore no positive weight can derive from a farm diversification argument.
- q) A site visit is essential.
- r) The scheme could develop into a larger scale development.
- s) The development would be contrary to policies for development in the countryside and does not satisfy the criteria for recreation and tourism proposals.
- t) A neighbouring well could be contaminated.
- u) Proposed screen planting would diminish light to Seale Cottage.
- v) Screening would take a long time to be effective, if at all.
- w) Many ramblers, horse riders, cyclists and the general public use the local footpaths and Lodge Road and their enjoyment of the setting would be diminished.
- x) There are no reasonably accessible local facilities, contrary to sustainable development objectives.
- y) The access floods.
- z) There is poor access by public transport to tourist attractions in the area.
- aa) There is substantial local opposition including objections from local businesses.
- bb) There is no evidence that new tourist accommodation could not be accommodated in or close to an existing village at a more suitable site.
- cc) There would be additional traffic in the local villages, where there is also limited parking.
- dd) The development does not compare favourably with the sustainable log cabin development of 6 units in 154 acres at Rosliston Farm.
- ee) Noise would adversely affect wildlife and livestock.
- ff) The land may be contaminated by agricultural chemicals.

Development Plan Policies

South Derbyshire Local Plan: Recreation and Tourism Policy 1, Transport Policies 6 and 7, Environment Policies 1, 10 & 11

East Midlands Regional Plan Policies 24 & 42. It should be noted that the Secretary of State's intention to abolish the Regional Plan is contained within the Localism Bill and he has stated that this is a material consideration.

National Guidance

PPS4 PPS7 PPG13 PPS24
Good Practice Guide on Tourism.

Planning Considerations

- The principle.
- Impact on the countryside.
- Residential amenity.
- Ecology.
- Access and Highway safety.

Planning Assessment

The Principle

Local Plan Recreation and Tourism Policy 1 indicates that tourist facility proposals will be permitted provided that development does not cause disturbance to local amenity by virtue of noise and traffic generation; adequate provision is made for pedestrian and vehicular access, parking, screening and landscaping and they are of appropriate scale and design and are well integrated with their surroundings.

Regional Plan Policy 42 indicates that areas with potential for tourism should maximise economic benefit and minimise adverse impact on the environment. Measures should include provision for additional tourist facilities including accommodation close to popular destinations that have adequate environmental and infrastructure capacity, particularly those within walking and cycling distance. Although the Regional Plan faces abolition it is nevertheless still part of the development plan and is not in conflict with the Local Plan and PPS4.

PPS4 EC7.1 indicates that LPAs should support the provision of tourist facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres, weighing the provision of adequate facilities with the need to protect landscapes. Wherever possible tourist facilities should be located in existing or replacement buildings, particularly where they are located outside existing settlements. Facilities requiring new buildings in the countryside may be justified outside villages where the facilities are required in conjunction with a particular countryside attraction (in this case the National Forest) and there are no suitable existing buildings or developed sites available for re-use. LPAs should ensure that new holiday caravan sites and chalet developments are not prominent in the landscape and that any visual intrusion is minimised by effective, high quality screening.

PPS4 EC12.1 indicates that LPAs should support small scale economic development where it provides the most sustainable option in locations that are remote from local service centres, recognising that a site may be acceptable even though it may not be readily accessible by public transport.

PPS7 para 15 indicates that planning policies should provide a positive framework for facilitating sustainable development that supports traditional land-based activities and makes the most of new leisure opportunities that require a countryside location. Planning authorities should continue to ensure that the quality and character of the countryside is protected and, where possible, enhanced.

Para 31 indicates that a supportive approach to farm diversification should not result in excessive expansion and encroachment of building development in the countryside.

PPG13 indicates that leisure facilities should primarily be sited at the most accessible locations in the local area.

There is no clear strong link to a current farm regime, and the proposal therefore carries little weight as a farm diversification project. However the development plan and national guidance on economic development lend favour to the proposal insofar as it would provide tourist accommodation in the National Forest, where there is an acknowledged need for accommodation that would provide for short breaks (National Forest Strategy 2004-2014) and also within reasonable proximity of other tourist attractions. As such the development is acceptable in this location, in principle.

Impact on the countryside

The topography of the site means that it would be clearly visible from the west in the period following development. However with an appropriate landscaping scheme the visual impact would reduce over a period of time. Furthermore the cabins would be low structures set between two-storey buildings. The proposed landscaping must be taken into account and it should be noted that the mature planting around the existing dwellings has a significant softening effect. The log cabins would sit between existing development. In this context the proposal would not bring about demonstrable harm to the general character and appearance of the area.

A planning condition would ensure that lighting is appropriate to its context, based on the Institution of Lighting Engineers Guidance Note for the Reduction of Obtrusive Light.

Residential Amenity

The site falls from Sandhurst to Seale Cottage and Grangewood Lea. Testing the proposal against the supplementary planning guidance for new housing development (which sets out reasonable standards for privacy, overbearing and light and thus forms an objective basis for assessing this proposal) the proposed low buildings would not have demonstrable adverse impact on the occupiers of Sandhurst, subject to precise siting and design of the buildings, to be submitted as reserved matters.

Seale Cottage and Grangewood Lea are set at a lower level than the application site and therefore the minimum standards set out in the supplementary guidance need to be increased to take account of the topography. Seale Cottage is subject to a recent grant of planning permission to extend towards the application site by some 3 metres, bringing it to about 1 metre from the boundary – the application for the extension was received on 14 December 2010. The indicative layout shows the proposed buildings to be 24 m (21m if the extension is taken into account) and 30 m away from Seale Cottage and Grangewood Lea at the nearest points and 20m and 9m from the respective boundaries. In terms of overbearing and loss of light this would comfortably meet the normal tests of acceptability, taking into account the permitted extension to Seale Cottage. However the elevated positions of the log cabins could cause overlooking, which would be controllable by condition and through the reserved matters process. Appropriate planting between the neighbouring dwellings and the log cabins would further protect privacy.

This type of development would not be expected to generate noise over and above general residential levels. The attraction is the National Forest, rather than on site activity. In the event of nuisance the Environmental Protection team would be able to impose remedial action. An appropriate condition would enable any potential noise generating communal facilities to be considered and controlled.

Ecology

The three specialist consultees do not consider that harm would be caused to ecological interests, in particular the River Mease SSSI and SAC. However conditions are recommended to ensure that the development does not result in pollution to the River Mease. The Council, as the competent authority, has undertaken the Appropriate Assessment required by Regulation 48 of the of The Conservation (Natural Habitats &

c) Regulations 1994. This concludes that by imposing conditions the development can be undertaken so as to avoid adverse effects on the River Mease SAC. Compensation for the loss of part of the hedge to the access and the habitat benefits identified by Derbyshire Wildlife Trust would be secured through landscaping conditions. There is no evidence of water voles.

Access and Highway Safety

On the advice of the Highway Authority the proposed access would not give rise to unacceptable risk. Whilst pedestrians would have to walk on verges or in the highway from the site to reach the footway at Gorse Lane, they could also use Footpath no 6, joining it where it crosses Lodge Road about 150 m to the west of the proposed site access. Footpath 18 can also be joined here. An appropriate condition would secure adequate access for people with a disability within the application site. It would be reasonable to require access arrangements for the disabled on site, so that people with impaired mobility can be included.

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.

Conclusion

The proposal would meet an identified need for tourist accommodation in the National Forest and would comply with the development plan and national guidance for such development. Being located between existing built development, and by virtue of the low height of the buildings and proposed landscaping, the impact on the character of the countryside would be acceptable. Reasonable standards of amenity for neighbours would be protected. There would be no demonstrable harm to highway safety or ecological interests.

Recommendation

GRANT permission subject to the following conditions:

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

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

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

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

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

3. 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 to comply with Local Plan Environment Policies 1 and 10.

4. Before any other operations are commenced, a new vehicular access shall be formed to Lodge Road generally in accordance with the revised application drawing (2010.032 - 001A), laid out, constructed and provided with visibility splays extending from a point 2.4m back from the carriageway edge, measured along the centreline of the access, for a distance of 150m towards the north-west and 120m towards the south-east, measured along the nearside carriageway edge, or such other distances as may subsequently be agreed in writing with the Local Planning Authority. The land in advance of the visibility splays shall be maintained throughout the life of the development clear of any object greater than 0.6m in height relative to the adjoining nearside carriageway channel level.

Reason: In the interests of highway safety and to comply with Local Plan Transport Policy 6.

5. Notwithstanding the submitted drawing no. 2010.032-001A the access shall be provided with minimum 6m radii or such other dimension as may be agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety and to comply with Local Plan Transport Policy 6.

6. Notwithstanding submitted drawing no. 2020.32-001A the sole means of access shall be from the approved access to Lodge Road only there shall be no means of access at any time (either vehicular or pedestrian) to Gunby Hill.

Reason: In the interests of highway safety and to comply with Local Plan Transport Policy 6.

7. Further to Condition 6 above details of the means of precluding access to Gunby Hill shall be submitted to and approved in writing before the development begins and the approved measures shall be implemented prior to the first use of the development.

Reason: In the interests of highway safety and to comply with Local Plan Transport Policy 6.

8. The development shall not be brought into use until space has been provided within the application site in accordance with the revised application drawings, or such other scheme as may subsequently be approved in writing by the Local Planning Authority, for the parking and manoeuvring of visitors/ customers/ service and delivery vehicles, laid out, surfaced and retained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety and to comply with Local Plan Transport Policy 6.

9. The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul drainage has been submitted to and approved in

writing by the Local Planning Authority. In particular, for a system that is not sealed, the scheme shall include:

- Soakaways to be constructed to BS6297:2007
- No connection to watercourse or land drainage system and no part of the
- Soakaway system to be located within 10 metres of any ditch or watercourse.
- No siting of the package treatment plant within 50 metres or upslope of any well, spring or borehole used for private water supply.

The scheme shall be implemented as approved and shall be in place before the development is first brought into use.

Reason: To comply with PPS9, Local Plan Environment Policies 1 and 11 and Article 3 of the Habitats Directive to ensure that the sewerage and sewage disposal systems serving the development are effective at this location without causing pollution to controlled waters. The site is located on a principal aquifer and within the catchment of the River Mease, an ultra-sensitive watercourse which is both a Site of Special Scientific Interest and a Special Area of Conservation, a European designation of the highest standing.

10. Further to condition 9 above a management and maintenance plan for the lifetime of the development, which shall include arrangements to secure the operation of the scheme throughout its lifetime, and details of a method for recording such management and maintenance, shall be submitted to and approved in writing by the Local Planning Authority before the development is brought into use. The management and maintenance records shall be made available for inspection by the Local Planning Authority at any time.

Reason: To comply with PPS9, Local Plan Environment Policies 1 and 11 and Article 3 of the Habitats Directive to ensure that the sewerage and sewage disposal systems serving the development are effective at this location without causing pollution to controlled waters. The site is located on a principal aquifer and within the catchment of the River Mease, an ultra-sensitive watercourse which is both a Site of Special Scientific Interest and a Special Area of Conservation, a European designation of the highest standing.

11. No work shall take place on the site until details of a scheme for the disposal of surface 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: To comply with PPS9, Local Plan Environment Policies 1 and 11 and Article 3 of the Habitats Directive to ensure that the sewerage and sewage disposal systems serving the development are effective at this location without causing pollution to controlled waters. The site is located on a principal aquifer and within the catchment of the River Mease, an ultra-sensitive watercourse which is both a Site of Special Scientific Interest and a Special Area of Conservation, a European designation of the highest standing.

12. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials

- storage of plant and materials used in constructing the development
- wheel washing facilities
- measures to control the emission of dust, dirt and any waterbourne contaminants during construction
- the materials and method of construction for the construction of the site access, in particular where it crosses the existing watercourse.

Reason: To comply with PPS9, Local Plan Environment Policies 1 and 11 and Article 3 of the Habitats Directive. The site is located on a principal aquifer and within the catchment of the River Mease, an ultra-sensitive watercourse which is both a Site of Special Scientific Interest and a Special Area of Conservation, a European designation of the highest standing.

13. The landscaping details required pursuant to Condition 2 shall include a buffer of planting designed to preclude access to the areas between the proposed log cabins and the adjoining dwellings to the north and south.

Reason: To maintain reasonable standards of privacy and amenity for the occupiers of those dwellings to accord with Local Plan Recreation and Tourism Policy 1.

14. Prior to being installed incorporated in the application site details of any communal facilities or equipment shall be submitted to and approved in writing by the Local Planning Authority and any such approved facilities shall be implemented only in accordance with those details.

Reason: To ensure that any noise generating usage of the site will not cause harm to the amenities of the occupiers of nearby dwellinghouses to accord with Local Plan Recreation and Tourism Policy 1.

15. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 2010.032 - BA

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

16. Further to Condition No 2 above, in the event that the landscaping proposals for the application site are insufficient to adequately integrate the development with its landscape context, further landscaping shall be undertaken on the land shown edged in blue on Drawing No 2010.032 - B.

Reason: In the interests of the appearance of the area to accord with Local Plan Recreation and Tourism Policy 1.

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

Reason: To ensure adequate opportunity of access for people with disabilities to accord with Local Plan Recreation and Tourism Policy 1 and Transport Policies 6 and 7.

18. Any external lighting shall be installed in accordance with details and specifications which shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area to accord with Local Plan Recreation and Tourism Policy 1.

19. Notwithstanding the provisions of Part C, Class 3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or any Order revoking or reenacting that Order), the premises hereby permitted shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the Local Planning Authority, and:
- i. the log cabins shall only be occupied for 11 months in any calendar year and in particular shall not be occupied between 14 January and 14 February (or other such period as may be agreed in writing with the Local Planning Authority) in any calendar year;
 - ii. the log cabins shall be used for holiday purposes only;
 - iii. the log cabins shall not be occupied as a person's sole, or main place of residence; and
 - iv. the site operators shall maintain an up-to-date register of the names of all owners and make best endeavours to maintain an up-to-date register of the names of all occupiers of individual log cabins on the site, and of their main home addresses, and shall make that information available at all reasonable times to the local planning authority.

Reason: The Local Planning Authority is only prepared to grant permission for holiday accommodation (in accordance with Local Plan Recreation and Tourism Policy 1) because another dwellinghouse in this location would be contrary to the development plan and the objectives of sustainable development as set out in PPS3 and PPS7.

20. Unless as may be approved through the reserved matters, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no boundary structures shall be erected 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 implemented in accordance with the approved details only.

Reason: In the interests of the appearance of the area to accord with Local Plan Recreation and Tourism Policy 1.

21. No works involving the crossing of the watercourse running alongside Lodge Road shall be undertaken until a further water vole survey and programme of construction works for this part of the development has been submitted to and approved in writing by the Local Planning Authority. The survey shall address the watercourse and its embankments, insofar as they are directly affected by the works, and all land within 10 metres of the area so affected.

Reason: To ensure that any new water vole habitat is adequately protected in accordance with PPS9, Local Plan Environment Policy 11 and the provisions of the Wildlife and Countryside Act 1981.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

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.

Further to Condition 2 the design and layout of the log cabins should include measures to prevent overlooking to the neighbouring dwellings.

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

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

Item 1.2

Reg. No. 9/2010/0714/RM

Applicant:
D'ZIGN UK (SWADLINCOTE) LTD
D'ZIGN HOUSE
16 VICTORIA CENTRE
PRIDE PARK
DERBY

Agent:
SIGNET PLANNING LTD
STRELLEY HALL
NOTTINGHAM

Proposal: **THE RESIDENTIAL DEVELOPMENT FOR 201
DWELLINGS, NEW ACCESS, INTERNAL HIGHWAYS
AND DRAINAGE, PUBLIC OPEN SPACE,
IMPROVEMENTS TO CYCLE ROUTE AND
ALLOTMENTS ON LAND OFF WILLIAM NADIN WAY
SWADLINCOTE**

Ward: **NEWHALL AND STANTON**

Valid Date: **30/07/2010**

Reason for committee determination

The application is brought before the Committee as a Regulation 4 development.

Site Description

This 7.3-hectare site is located on land to the north of William Nadin Way. The existing allotments included in the application site are in the southeastern part of the site with the Council depot adjacent to the east. Pingle School is immediately north of the site with the Multi Use Games Area (MUGA) adjacent to the north eastern boundary. There are currently three existing properties within the site boundary with access from Darklands Lane with Breach Leys farmhouse and extensive outbuildings being the largest. The majority of the site is used as a paddock area for horses with an old circular track still evident. The southern part of the site adjacent to William Nadin Way is heavily treed and Darklands Brook runs through this area, as does an existing cycle route. To the west is part of the former Nadins open cast site with the Breach Leys Farm Meadows Local Wildlife Site of 2.6 hectares immediately to the west over the existing ditch. Public Footpath No. 46 runs across the centre of the site linking Darklands Lane with the open land to the west.

Proposal

The scheme should be considered in conjunction with the proposal for the new depot at Tetron Point and the outline application for retail development at the existing depot site (application no.s 9/2010/1113 and 9/2010/0715). All schemes are interdependent due to

the Council owning parts of the land within this application and that of the existing depot. This scheme would facilitate the relocation of the Council depot to Tetron Point to provide a much-improved facility for the district.

Permission is sought for the erection of 201 dwellings with access off William Nadin Way. The proposed housing mix is as follows:

- 9 x 1 bed
- 70 x 2 bed
- 76 x 3 bed
- 42 x 4 bed
- 4 x 5 bed

The only vehicle access to the site would be from William Nadin Way just west of the centre of the site and 50m east of the existing junction for Brunel Health Care on the opposite side of the road. In the middle section of the site the dwellings would be 2.5m lower than William Nadin Way and this reduces to 0.5m lower in the northern part. In the eastern part of the site the land level is 2.5m lower than the road level and this reduces to 1.5m lower in the area where the open space is proposed and then reduces again to 2.5m. To the west of the site the land level is 0.5 – 1m higher than the road and then levels out to the same level as the road. The land to the north is higher than the site and land to the east and west follow the same contours as the site.

The existing allotments in the south eastern corner of the site would be retained and improved as part of the proposed development. Darklands Brook separates the site from William Nadin Way and extensive planting is proposed in this area, which would be 22 – 37 m in width. Within this area there is an existing cycle route, which would be widened to 3m and surfaced. The Brook also runs along the western boundary and links to a proposed retention pond in the south western corner with open space along this boundary and surrounding the pond adjacent to the open land to the west.

There would be four main streets within the development with other smaller streets with paving at the junctions or along stretches of the streets. The design concept is to have dwellings close to the road frontages with main elevations facing the roads and curved dwellings on prominent corners. The dwellings would be either two or two and a half storeys with gable roofs. The majority of dwellings along the southern boundary with William Nadin Way would be two and a half storeys. These dwellings would be 33- 70 m from the road frontage with the greater distances in the eastern part of the site due to the allotments. Low-density developments of detached properties are proposed adjacent to the landscaped areas to the south and west.

Twenty three different house types are proposed with the most dominant being types A and B which are two storey semi-detached 3 bed properties with canopies over the front doors, brick cills and arched lintels on the ground floor. The house types have a mix of features to add interest such as gable features, drive unders, brick and stone cills and lintels, pitched roof dormers, rooflights, parapet gable features, bay windows and julliet balconies and integral garages on the coach houses.

The main focal point within the development would be the large area of open space in the north eastern part of the site with a LEAP at its centre. This area would also include a monument feature to aid legibility around the site. Parking is a mixture of garages to the side of properties set back from the road, rear parking courtyards and either parallel

or vertical parking on the streets. Pedestrian routes to the town centre would either be via Darklands Lane or William Nadin Way where a pavement that links to a crossing point to join with the existing pavement on the southern side of the road is proposed. Garden lengths range from 7 – 14.5m with the majority being 8-9m. The overall density of the development would be 38 dwellings per hectare.

Applicants' supporting information

The Planning Support Statement includes:

- a description of the site,
- a description of the application proposal with percentages of dwelling types, access, roads, parking and features such as the allotments, green corridor and open space,
- Site Constraints / Opportunities – constraints are listed as Darklands Brook, Public Footpath 46, Cycle route 63, public combined sewers crossing the site, habitats on and adjacent to the site, mine shafts, Japanese Knotweed, site contamination and areas of historic landfill. Opportunities are that the site is well located to the town centre and is thus a sustainable location and the existing Darklands Brook corridor would be improved as well as the allotments,
- Summaries of the specific studies / reports undertaken,
- An assessment against planning policy – Summaries of policies within PPS1, PPS3, PPS 9, PPS 13 and PPS 25, assessment of the relevant Local Plan Policies and SPGs,
- Conclusion – Provision of a high quality scheme in a sustainable location.

The Design and Access Statement describes the site's physical context with views into the site, assesses the neighbourhood character sets in relation to types of properties and picking out typical architectural features. It assesses the social and economic context in terms of local facilities such as schools and health care. It outlines the pre-applications discussion topics. It outlines and annotates all the site constraints such as the Brook, sewers, public footpath, mine shafts etc. The opportunities of the site are identified as the open space provision, green corridor and improvements to the allotments. In the concept and principles section the report assesses the character, continuity and enclosure, quality of the public realm, ease of movement, legibility, adaptability and diversity of the proposal. Density is calculated taking into account the open space areas, which reduces the developable area to 5.3 hectares and thus a density of 38 dwellings per hectare. In terms of the layout this was designed taking into account all the site's constraints. The scale section indicates the thinking behind the types of house types used in the different areas of the site with the highest properties fronting onto William Nadin Way. The areas of public open space are identified on a plan and proposals for landscaping outlined. The last section of the report assesses the proposal against the 20 Building for Life Criteria.

The Ecology Report with Reptile Survey firstly outlines the methodology used and then the species that were surveyed which includes Badgers, Barn Owls, Bats, Great Crested Newts, Otters, reptiles and Water Voles. The existing buildings on the site were surveyed and no evidence of bats or barn owls was found. The well-grazed grassland on site limits the foraging habitat for barn owls. Bats were recorded foraging on the site. There are no ponds on site for Great Crested Newts. They were found on an adjacent site, however, the boundary watercourses to the west of the site act as a barrier. No evidence of otters or water voles was recorded on site. The reptile survey found no

evidence of reptiles on site; however, grass snakes could be using the corridor provided by Darklands Brook, which would be retained. Measures to minimise risk to reptiles include limiting work in sensitive areas to times of the year when reptiles are active have been suggested.

The Site Investigation has identified historical uses of the site as a colliery, a railway line, an area of industrial tipping, small-scale residential development, agriculture, and allotments. Identified historical uses of adjacent land have been a colliery, an opencast site, residential use, and a greyhound stadium. The Darklands Brook running through the site has been re-routed during the construction of the A514. Given the site's history, it is recommended that a Phase 2 investigation take place with recommended works including sampling and gas monitoring.

The Flood Risk Assessment identifies that the main flood risk to the site is considered to be Darklands Brook, which flows, in a westerly direction close to the southern boundary of the site. A tributary of Darklands Brook flows adjacent to the western boundary of the site and joins the Brook at the south west corner. The site falls mainly within Flood Zone 1 and partially within Flood Zones 2 and 3. No residential units are proposed for the areas shown to flood and the actual residential area will be within Flood Zone 1, which has a low probability of flooding. Finished floor levels for the development will not have to be raised above the predicted flood levels in the watercourse. Surface water runoff from the site would be attenuated through a suitable flow control device with floodwaters being stored in an attenuation pond.

The Transport Assessment includes an assessment of committed developments at Tetron Point, Sainsbury's and Hepworth's sites with their trip generation and routing analysed. Bus and train services and pedestrian and cycle routes were assessed in the area together with local facilities. Accident data was reviewed. Vehicle trip generation has been calculated and surveys of the two junctions Civic Way roundabout and Tetron roundabout were undertaken with the agreement of DCC. The proposed development would be accessed via a new priority junction on William Nadin Way. The report concludes that the proposed development would generate a quantum of traffic on the local highway network but this would not be of a sufficient quantity to create either road safety or highway capacity impacts. These conclusions have been confirmed by assessment of the performance of junctions using industry-standard tools and through an examination of the road safety record.

The Archaeology Report concludes that as the site was previously used as a colliery it has negligible potential for surviving remains other than those relating to colliery workings. Such workings will have removed any archaeology should it have existed. There is some potential for prehistoric activity along the banks of Darklands Brook, however, this land will remain as open space and thus mitigates any impact. Therefore, the proposed development will not have an adverse impact on any archaeological remains.

The Landscape and Visual Impact Appraisal involves the study of the potential impact that development may have on i) the site itself, ii) the character of the surrounding area and, iii) views afforded of the site from the surrounding locality. It concludes that although development would result in the loss of some green field land, this land and the surrounding landscape are considered to be of low sensitivity to change and development may therefore be appropriate. Development would not be of detriment to the surrounding landscape character due to the presence of large scale new

development coupled with existing features that are primarily connected to past industrial uses of which the site displays few positive key characteristics. In terms of visual impact, receptors are deemed to be of generally low sensitivity and development of the site would provide an opportunity to enhance its key elements, improve existing boundary vegetation and provide new screen planting that could ultimately benefit receptor views from some locations.

The Tree Report found 45 individual trees and 36 groups of trees on the site and that of the existing Council depot. One category A (high quality with life span of 40 years) and ten category B (moderate quality with a 20 year life span) were identified on the residential site. The tree constraints plan indicates that the category A tree T272 is located in the north eastern part of the site adjacent to the boundary (would be within rear garden of plot 199), category B trees are within group G27 located on the southern boundary adjacent to Darklands Brook and T278 a category B Hawthorn. No recommendations are included within the report in terms of their retention.

The Utilities Assessment concludes that it has been demonstrated that the availability of utility services has been examined and that where necessary, reinforcements to the existing network identified to ensure that capacity will be made available. Proposals have been developed to ensure minimal impact on existing service routes such as the principal foul sewers crossing the site and provision has been made for accommodation of utility infrastructure. As new service routes will follow the on site highway network, additional impact on retained trees will be minimal.

Planning History

None.

Responses to Consultations

Severn Trent Water has no objection subject to a condition regarding surface and foul water sewage.

The County Highways Authority has raised concerns throughout pre application discussions and during the application as submitted. It advises that the overall layout has not evolved to an extent that can be regarded as reflective of contemporary residential design guidance with emphasis placed on higher priority for pedestrians and cyclist and acknowledges that constraints to layout exist, not least being the drainage easement that runs through the site. It advises that concerns are raised regarding speeds being unable to be contained to less than 20mph and emerging driver visibility accesses being restricted to distances that are not regarded as satisfactory within a design that should emerge for a holistic design approach. It further suggests conditions that should be attached should approval be given.

Natural England acknowledges that no reptiles or bats were found on site and does not raise any objections to the application as submitted, subject to standard conditions relating to breeding birds, disposal of Japanese Knotweed, lighting schemes during construction being attached to the permission should approval be given.

Derbyshire Wildlife Trust considers the survey information with regard to protected species to be adequate. No bats were recorded emerging from the existing buildings, which are due for demolition, and no trees were identified to be suitable for roosting

bats. No reptiles were recorded during the survey, In relation to Great Crested Newts, as some were found in a pond adjacent to the site, it recommends that Natural England be consulted regarding this species. Conditions relating to retention of the green corridors of the Darklands Brook together with protection during construction, no storage of materials, breeding and nesting birds and a Habitat Management and Monitoring plan should be submitted.

After extensive assessment, the Environment Agency has no objection to the development subject to the proper implementation of the measures set out in the FRA and other conditions.

The Crime Prevention Design Advisor is concerned with the through link between house plots 89 and 109. The concerns relate to a lack of surveillance of the parking areas, vehicles having limited views when reversing and the advice that a single access point is more desirable from a crime safety perspective. Other links through parking areas are acknowledged but their security is a concern. The link between Darklands Road to Newhall, via the public footpath, is recognised as a well used sustainable route and advise regarding lockable gates, lighting of parking areas and requirements for layouts to meet BS5489 are advised.

The Environmental Protection Manager had serious concerns with regard to this application in relation to the proximity of some of the proposed dwellings to the Pingle School Artificial Turf Pitch (ATP). This ATP has been the subject of a Nuisance Abatement Notice served by this Authority due to noise emanating from the use of the pitch affecting a property which is just over 50m away. The result of that Nuisance Abatement Notice was that a high close boarded barrier was erected on the sides of the pitch between it and the residential properties on Hazel Close to the north. Following the erection of this barrier further investigation led to the opinion that the noise was still a statutory nuisance and ultimately this has led to an agreement on reducing the number of hours the pitch is used over the summer months.

This proposed development contains a plan which shows a number of dwellings within approximately 15m of the ATP, located on a side of the pitch which is without any barrier. He recommends therefore that none of the houses in the vicinity of this side of the site be occupied prior to mitigation measures are in place sufficient to negate any undue noise impact on future residents.

The Contaminated Land Officer does not raise any objections to the application as submitted subject to a standard condition relating to contamination and pollution of controlled waters being applied.

Sport England notes that no existing sports facilities would be affected by the proposal. It is therefore considered that the proposed development presents an opportunity to embed sports participation and the associated social benefits within the new community. Based on their sports facilities calculator the development would justify a total investment of around £160,000 to new or improved indoor facilities if the existing provision does not have sufficient capacity to address the increased demand.

Derbyshire County Council Education Authority states that the proposed development is within the normal area of Elmsleigh Infant and Nursery School, Springfield Junior School and The Pingle School. They advise that the schools within the area currently and are projected to have sufficient places to accommodate the number of pupils arising

from the development for the next 5 years and therefore are not seeking a contribution for education.

Derbyshire County Council's Greenway Officer considers that a continuous route from Darklands Lane to Park Road along the northern boundary of the site is required, as well as connections to the employment area to the south and housing to the north. A 3m wide multi-user path for walkers, cyclists and horse riders is required and the southern route would be acceptable if it catered for horses.

The Rights of Way Officer confirms that Public Footpath No 46 crosses the site and will be affected by the development. No objections to the application are made, but the applicant needs to be made aware of the need to divert the footpath and avoid obstruction of the route.

The National Forest Company considers that the site is subject to the National Forest Planting Guidelines (20% of the footprint of the site area for housing sites up to 10 hectares). The NFC notes that the proposed open space provision within the scheme is 2.34 Ha. It requests that the landscaping scheme includes significant tree planting such as roadside tree planting beside William Nadin Way, tree planting associated with the Darklands Brook and West Brook green corridors, street and garden trees and feature, parkland style tree planting associated with the formal open/play space areas.

Derbyshire Primary Care Trust considers that a medical contribution is required as only Heartwood Medical Centre could absorb the additional patients and Swadlincote Surgery on Darklands Road would be overcrowded. They seek a contribution of £103,024.56 (£512.56 x 201 dwellings).

Derbyshire County Archaeologist states that the heritage information supplied by the applicant meets the information requirements of Policy HE6 of PPS5.

Responses to Publicity

Two letters of objection have been received from neighbouring properties on Yard Close as follows:

- a) The increased use of the existing and proposed footpath from the development to the doctor's surgery and Swadlincote is a concern as the route abuts their property and they have had problems of vandalism and damage to cars and fences.
- b) In light of the increase in pedestrians using this route, boundary fencing delineating the route would avoid the problems already encountered and thus minimise the impact on their privacy and the protection of their property.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policies 4, 9 and 11; Environment Policies 9, 10, and 11; Transport Policies 6, 7, and 8; Recreation and Tourism Policies 4 and 8.

RSS8 (East Midlands Regional Plan) Policy Three Cities SRS 3.

National Guidance

PPS1, PPS3, PPS4, PPS5, PPS9, PPG13, PPG17, PPG23, PPG24, PPG25.

Planning Considerations

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

- Principle of Development
- Visual impacts
- Access, highway and transport issues
- Landscaping and open space
- Design and Layout (Building for Life Assessment)
- Ecology Issues
- Flooding Issues
- Noise Attenuation
- Affordable Housing and other contributions
- Other issues raised by consultation

Planning Assessment

Principle of Development

Housing Policy 4 of the Local Plan seeks to ensure that housing developments in the Swadlincote urban area are located within or on the fringe of the urban area subject to a number of criteria. The site is on the fringe of the built up area of Swadlincote as defined by the Local Plan and has residential areas to the north and east and industrial areas to the south and southwest. On this basis it can be concluded the site is substantially surrounded by development. The proposal would not result in intrusion of the rural landscape as although there is open land to the west this is bounded by residential areas. The land itself is used as a paddock area for horses and has not been maintained for many years and thus is not classed as agricultural land. The land, being underused for many years, does not make a valuable contribution to the character of the area currently (hence its exclusion from the designated open space area in the Local Plan adjoining its western boundary) and the redevelopment of this land would enhance the area. The site's main landscape feature, the brook corridor, would be retained and thus would continue to provide a valuable contribution to the area linking with the open land to the west and maintaining the planting belt along William Nadin Way, which is an important gateway feature to the town and its location in the National Forest. The proposal does not have a high density and would fit comfortably within its context. It would not prejudice adjacent industrial premises, as a buffer between the uses would be enhanced. Accordingly the development is in compliance with Housing Policy 4.

The East Midlands Regional Plan (EMRP) (RSS8) sets out the current housing requirements for South Derbyshire in Policy Three Cities SRS 3. This establishes a requirement of 600 dwellings per annum (dpa) between 2006 and 2026 with at least 320 dpa within or adjoining the Derby Principal Urban Area (PUA). Significantly for the application site it states that the remainder (up to 280 dpa) should be located 'mainly at Swadlincote'. The proposal therefore accords with this policy.

Members should be aware that the Secretary of State has announced his intention to revoke Regional Strategies through the Localism Bill. Whilst this may be material to the determination of planning applications, it does not change the planning assessment in this case.

National guidance, particularly PPS1 (Delivering Sustainable Development) and PPS3 (Housing), provide more recent relevant guidance on the determination of this proposal. In seeking the creation of mixed and sustainable communities, these policies aim to ensure that housing is developed in suitable locations which offer a range of community facilities and with good access to jobs, key services and infrastructure. Similarly, for employment, the overall aim of national planning policy in PPS4 is achieving sustainable economic growth. This includes reducing the need to travel especially by car, responding to climate change and raising quality of life and the environment.

The site's location adjacent to the town is an ideal location in terms of sustainability as the site is within walking distance of a large range of services such as schools, medical and leisure facilities and the town centre. The site can be accessed by a choice of transport and would thus reduce reliance on the private car. The proposal incorporates a new crossing over William Nadin Way that would also allow further access to the town centre by pedestrians and the extension and improvements of the existing public footpath 46, the cycle path and greenway will allow for accessibility to walkers, cyclist and horse riders. It can therefore be concluded that the principle of residential development on this site is acceptable and is in accordance with national policies.

In addition to the above, PPS3 also requires Local Authorities to maintain a rolling five-year supply of housing sites. Whilst there is no current shortage of supply in this part of the District, the grant of permission for this sustainable proposal would assist in maintaining an ongoing five-year supply.

Visual impacts from surrounding areas

The landscape and visual impact appraisal considers that as considerable degradation of the landscape of this area has occurred due to historic industrial activity the landscape has a low sensitivity to change. Important views of the site are from Stanton, Newhall, Coniston Court and William Nadin Way and impacts are considered to be low adverse impacts, neutral and minor beneficial. Views of the site are limited due to higher land levels to the north, the site being lower than William Nadin Way and the extensive planting along this road and also the dense built up areas that surround the site. As the views of the site are either restricted or screened by planting or buildings the proposal would therefore have a positive effect.

Access, highway and transport issues

Local Plan Transport Policy 6 among other things seeks to ensure that all development is properly accessed; is serviced by public transport where appropriate and meets the cost of any necessary improvements to the highway network. Transport policies 7 and 8 similarly seek provision for pedestrians, people with disabilities and cyclists. Recreation and Tourism Policy 8 seeks to safeguard the existing network of footpaths and bridleways. PPG13 seeks to: promote more sustainable transport choices; promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling, and reduce the need to travel, especially by car.

The success of the site in terms of its sustainability credentials relies on links to the nearest urban area where its population can access main services. The site is within easy walkable distance of Swadlincote and is also served by an existing Public Footpath and proposals are to extend the Greenway. This would enhance the experience for pedestrians and cyclists.

Although the Highway Authority is not objecting to the scheme, it remains concerned about the scheme apparently mainly due to a lack of final 'tidying up' in terms of detail which, according to recent discussions with the applicants, is being addressed. Further details will be reported to the Committee in the form of a verbal update.

Design and Layout (Building for Life Assessment)

High quality design plays a central role in *'Making South Derbyshire a better place to live, work and visit'*, which forms the overall vision for the Council (Corporate Plan 2009 –2014). This reflects the need for good design established in saved Local Plan Housing Policy 11. The Council has also recently published guidance to encourage improved applications and therefore better-designed developments as advocated by PPS1 (para.33). The guidance sets out the methodology necessary to achieve a high quality 'product' and utilises the Building for Life scheme advocated by CABE for the objective assessment of schemes. The scheme has been assessed using these criteria and scored 14, which is the recommended score for schemes assessed under the criteria.

The proposal has a strong Masterplan with extensive areas of open space and a focal point to provide distinct areas. The overall layout of the scheme relates to its surroundings and is largely specific to the scheme. The dwellings are proposed close to footpaths to enclose the space and create the character of the area. Curved dwellings and taller dwellings address the corners and act as end stops. The use of a mix of parking solutions reduces car dominance and difference in paving at road junctions and stretches of road helps create a pedestrian friendly environment. The distances between dwellings are considered acceptable and in line with the Council's space standards. Adequate garden sizes are proposed in relation to the type of properties. The pedestrian and cycle routes essential to the sustainability credentials of the scheme are appropriate and link well with existing routes.

The designs of dwellings vary from large detached two and half storey properties to two storey coach houses. Some amendments to the house types have been sought to ensure the design principle of first floor windows being smaller than ground floor windows is followed together with alignments of windows and doors improved. The smaller dwellings have very simple designs with arched lintels on the ground floors and either mono-pitched or gable canopies over the front doors. Larger dwellings include gable features, bay windows, parapet gable ends, pitched roof dormers with stone cills and lintels or brick arched lintels on the front elevations. The larger feature properties are used on the edges of the development to reduce densities adjacent to the open areas and to act as end stops and create a character along the Brook corridor.

High quality materials will enhance the appearance of the dwellings and both render and timber cladding are proposed to aid legibility around the site.

In relation to the criteria that relate to assessment of environment and community, the Council's Housing Strategy Manager has stated that there is a mix of accommodation

on the site that broadly reflects the needs of the area and there is a mix of both private and affordable proposed. Although the proportion of affordable is less than we aspire to. The landscape plans illustrate that the brook with steep sided slopes on the Southern and Western edges of the site has been made in to a green corridor. A retention pond has been created adjacent to this brook, with seating around. Houses on the edge of the site overlook this enhanced green edge. Existing allotments have been improved as part of the scheme. In general the open space would cover 2.34 hectares, approximately 31.8% of the total site area, which is considered to be a significant contribution to the visual enhancement of the area. The main areas are the allotments; Brook corridor and 0.48 hectares would be formal public open space.

A recently amended landscaping scheme meets the requirements of the Council's Landscape Architect and on her advice the proposed treatment of the open areas would be acceptable.

In relation to overall character, the house types are not considered specific to the site and its context, however, there is a mix of characters of property in the vicinity. The submission of the landscaping plan indicates further how the landscape and topography of the site has been exploited by the scheme. The scheme scores low in this category as there is no defined street hierarchy. House types are mixed throughout the site and on the main street through the site there is such a mix of dwellings that no specific character is evident. The use of two house types along Street D improves its character, however, overall the spread of house types weakens the masterplan. A plan indicating where strategic materials such as render and timber cladding has been submitted this greatly aids the legibility of the streets. The repositioning the monument to ensure it is highly visible in the streetscene of street B can be controlled by condition, as an issue with respect to the sewer requires resolution. The principle of public fronts and private backs of dwellings has been applied successfully. The house types around the open space have been amended slightly to reflect the prominence of their location. The house types that enclose the open space have been greatly improved through the use of stone on the lower sections of dwellings and introduction of modern designed dwellings with large areas of timber cladding and render on the frontages. Some house types fronting the green edges of the site have been designed in a contemporary style and with timber to create a degree of unity with their surroundings. The amendments have significantly improved their impact on enclosing and accentuating the space through increased eaves heights and steeper roof pitches.

In relation to criterion relating to streets, parking and pedestrianisation the scheme scores well as the strong block structure, central mews and large open space help to reduce the dominance of highways. A mix of parking solutions have been incorporated into the layout such as on street parking, rear parking courtyards and garages set back from the roads. Block paving has been used effectively to make areas more pedestrian friendly and links to the open space are welcomed. The scheme links well with the existing footpaths and cycle routes. Consultation with The Pingle School has been carried out and a link with the school from the development is not acceptable for security reasons. Some amendments to certain dwellings that overlook the open space and Darklands Lane have been made to increase surveillance.

In relation to design and construction there is limited scope for improvements to the score as it is felt that overall architectural quality of the house types is not strong. Improvements have been sought in relation to alignments of windows and the level of

stone work and cladding on frontages to ensure the appearance of these strategic house types achieve a high standard of design.

The amendments have enabled a score of 14 to be achieved which is a good score and would create a high quality environment for people to live.

Ecology Issues

Both Natural England and Derbyshire Wildlife Trust have not raise any objections to the application as submitted. They acknowledge that no reptiles were found during the survey and that proposals for the enhancement of the Darklands Brook will ensure that they can be accommodated if required. The recommendations of the submitted ecological report are welcomed as bats were seen foraging in the area and they support the intention to incorporate a multifunctional green space within the scheme. The open space is an important element of the development and offers an opportunity to create multifunctional green space that can be managed to provide multiple benefits including; recreational activity, biodiversity improvements and landscape enhancement. Conditions relating to the green corridors of the Darklands Brook and a Habitat Management and Monitoring plan for the created and retained habitats are recommended.

Flooding Issues

The site falls mainly within Flood Zone 1 and partially within Flood Zones 2 and 3. No residential units are proposed for the areas shown to flood and the actual residential area will be within Flood Zone 1, which is considered to have a low probability of flooding. Finished floor levels for the development will not have to be raised above the predicted flood levels in the watercourse. Surface water runoff from the site would be attenuated through a suitable flow control device with floodwaters being stored in an attenuation pond. On the advice of the EA the development would be acceptable subject to the requirements of the FRA.

Noise Attenuation for Artificial Turf Pitch (ATP) at Pingle School

In relation to their comments in the responses to consultation section above, the Environmental Health Officers have sought an opinion from an acoustic consultant in terms of a solution to the concern regarding noise from the ATP and potential height of a barrier to mitigate the noise. Securing a proposed barrier height of 6m (including any bund) at the boundary of the pitch would satisfy them that the level of noise from the pitch when in use would not unduly disturb the future residents on the development. The barrier would need to adjoin all houses within the "buffer" zone.

Provision should be made to shroud the all weather pitch lighting at the southern end of the pitch to prevent direct glare to residents on the development. As this acoustic barrier would be erected on the school land adjacent to the site it can only be secured by the applicant by way of undertaking with the school and permission would need to be conditional upon this.

Affordable housing and planning obligations

A viability assessment has been submitted to indicate that the scheme is only viable with no affordable housing and further investigation was required to establish what has

changed since the initial assessment whereby 30% was discussed. The District Valuer has reviewed this viability assessment and has concurred with the conclusions made. However, further negotiations have been undertaken with the Housing Association involved in the scheme and through other funding streams, 5% affordable housing can now be achieved.

The Council's Housing Strategy Manager has agreed that the 5% affordable housing shall be delivered through planning gain and would be 100% for social rent and delivered early in the phasing. A preferred property type mix for the affordable housing has been indicated so the location of the plots on the site can be considered. This affordable housing offer, whilst disappointing, is considered to achieve through best endeavours a realistic amount in light of the current market constraints and given the other calls on the site to finance other public facilities.

Medical facilities

The PCT strategy assumes an average of 2.3 persons per household therefore an increase in population directly attributable to this development is 462 persons. The current position with regard to the nearest GP practices – Heartwood and Swadlincote has been assessed and indicates that currently Heartwood has a list size that exceeds recommended levels and Swadlincote is overcrowded in respect of physical space.

The development would create 462 persons based on 2.3 persons per dwelling and the tables provided by the PCT indicate that there is a capacity at the Swadlincote Surgery on Darklands Road for 643 people. Hence there is capacity at this surgery. Heartwood practice should not be included as it is located further away from the development. In light of the Community Infrastructure Levy Regulations 2010 that state:

“A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development”.*

Therefore, as the nearest surgery to the site has sufficient capacity to meet the needs of the development, a contribution as required by the PCT would not meet the above tests and as such cannot be secured through the Section 106 for this development.

Other issues raised by consultation

In relation to the Police's comments in respect of the parking courtyard between Plot 89 and 109, a two storey dwelling within the parking area, which would provide natural surveillance, overlooks this area. An adequate lighting scheme can be controlled by condition together with a standard condition relating to secure by design requirements.

Darklands Lane can be improved as part of this development and the potential redevelopment of the existing depot site and boundary fencing and or defensive planting can be introduced in order to delineate the route and avoid vandalism to properties on Yard Close.

Conclusion

Although not allocated in the local plan, as outlined above, the site displays excellent sustainability credentials and has achieved a good Building for Life score and is therefore a suitable site for development. Although the site has been shown not to generate sufficient funds to meet all of the usual percentage of affordable housing, the site would be an important part of capital generation to facilitate the relocation and improvement of the current depot which is desperately needed along with other capital projects. Notwithstanding this, effort will continue to secure further affordable housing on the site by other means.

Recommendation

That, subject to:

- a. The receipt of a signed Section 106 Agreement for the provision of £138,990 open space, £124,300 for outdoor facilities (including a contribution to the fencing of the ATP) and £68,930 for built facilities (Total open space contribution £332,220), £80,000 in lieu of National Forest Planting on site and £50,000 for LEAP equipment,
- b. The satisfactory conclusion of an agreement to secure the fencing and landscaping of the ATP to the north;

GRANT permission under Regulation 4 subject to the following conditions:

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

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

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no's 6599 P24, 6599 P23 N, 6599 P24 A, (SK)21, D.0307_01-C, D0307_02-C, D.0307_03-C, D.0307_04-B, 6599 P26, 6599/P/01 D, 6599/P/45 C, 6599/P/02 E, 6599/P/46 C, 6599/P/47 B, 6599/P/13 A, 6599/P/12 A, 6599/P/03 A, 6599/P/05 B, 6599/P/04 B, 6599/P/44 B, 6599/P/06 C, 6599/P/07 E, 6599/P/08 B, 6599/P/09 C, 6599/P/48 B, 6599/P/11 B, 6599/P/10 B, 6599/P/50 B, 6599/P/49 B, 6599/P/43 A, 6599/P/40 B, 6599/P/16 A, 6599/P/17A, 6599/P/42 C, 6599/P/18 D, 6599/P/19 C, 6599/P/41 C, 6599/P/20B, 6599/P/22 B, 6599/P/21, 6599/P/14 B and 6599/P/15 B.

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

3. Prior to commencement of development a plan indicating the phasing of the development shall be submitted and agreed in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme, unless otherwise agreed in writing.

Reason: To enable submissions to be made on a phased basis to respond to local circumstances.

4. Prior to commencement of development in any one phase a lighting scheme (including details of lighting during the construction phase) shall be submitted and approved in writing by the Local Planning Authority and the scheme shall be implemented in accordance with the approved details.

Reason : To minimise lighting impacts on wildlife during construction phase and to preserve amenity, ensure the safety of pedestrians and prevent danger to road users.

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

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

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

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

7. The development hereby permitted shall not be commenced in any one phase until such time as a scheme to treat and remove suspended solids from surface water run-off during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To protect the water environment from contamination brought on site during construction works.

8. 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.

9. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

10. Piling using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure the piling method does not introduce a pathway for the contaminants to migrate into controlled waters.

11. Prior to commencement of development a method statement for works within the green corridors of the Darklands Brook shall be submitted and agreed in writing by the Local Planning Authority and the works implemented in accordance with the agreed details.

Reason : To ensure protection of their ecological significance.

12. 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 within each phase 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.

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

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

14. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping for the remainder of the site that is not covered by plan no's D.0307_01-A, D.0307_02-A and D.0307_03-A , 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. Prior to the development of each phase hereby approved commencing, details of the finished floor levels of the dwellings 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 amenity of the locality generally.

16. A schedule of external materials for the dwellings of each phase shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the dwellings are in keeping with their surroundings in the interest of the character and visual amenity of the area.

17. 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 in each phase, 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.

18. Prior to the commencement of development a timescale shall be submitted and approved in writing by the Local Planning Authority for the cycle / pedestrian route (NCN 63) to be widened to 3 metres, surfaced and available for use, unless otherwise agreed in writing by the Local Planning Authority.

Reason : To ensure accessibility of the site with the town centre and local routes.

19. Prior to commencement of development of the relevant phase the exact location of the monument shall be submitted and agreed in writing by the Local Planning Authority and the monument shall be erected in the approved position prior to the occupation of any of the dwellings in the relevant phase.

Reason: To ensure legibility of the site.

20. Prior to the commencement of development of the relevant phases a scheme for the provision of the affordable housing hereby permitted has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of PPS3 or any future guidance that replaces it. The scheme shall include: the tenure of the affordable housing provision to be made which shall consist of not less than 5% of housing units; the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL involved) ; the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced. The development shall thereafter be implemented and managed in accordance with the approved

scheme in perpetuity, unless the Local Planning Authority agree to amend the approved scheme in writing.

Reason : To ensure a minimum 5% affordable housing provision for the site.

21. Prior to the commencement of dwellings on each phase the eaves and verge details shall be submitted and agreed in writing by the Local Planning Authority and implemented in accordance with the approved details.

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

22. The areas of carriageway, indicated as "block paving" on the application drawing (6599 P 23 Q), at the junction of Street A and Street C and the junction of Street C and Street B shall be constructed as raised tables, in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority.

Reason: In an attempt to restrain vehicle speeds on the straight lengths of highway within the development in the interests of highway safety.

23. Prior to the commencement of any other works, revised details shall be submitted to and approved in writing by the Local Planning Authority for Plots 36-43, 76-79, 100-107, 109-111, 192-196 & 201 to provide emerging visibility sightlines at the accesses to each plot in accordance with guidance laid out in the Manual for Streets document, produced by the Departments of Transport and Communities and Local Government. The development shall be implemented in accordance with the revised details.

Reason: To accord with Manual for Streets (as amended) in the interests of highway safety.

24. Prior to any other works commencing, a revised plan shall be submitted to and approved in writing by the Local Planning Authority showing all dwellings on the site set back a minimum distance of 0.5m from the proposed highway boundary. The development shall be implemented in accordance with the revised details.

Reason: In the interests of highway safety.

25. Prior to any other works commencing, a revised plan shall be submitted to and approved in writing by the Local Planning Authority showing a highway margin on the roads adjacent to the public open spaces in order that street lighting can be accommodated along the roads on this section of the development. The development shall be implemented in accordance with the revised details.

Reason: In the interests of highway safety.

Informatives:

It is noted that Japanese Knotweed has been identified near the site. This can be controlled by application of herbicides. This should only be carried out by a qualified person, with the appropriate National Proficiency Tests Council certification. Only certain herbicides can be used near water, as is the case with this site, and the approval of the Environment Agency may be required. The applicant should contact the Agency with proposed plans for the method of dealing with the species to ensure suitability. The Environment Agency advise that any materials imported for infilling, restoration, landfill, regarding, landscaping, bunding, screening or roadway infrastructure must be restricted to uncontaminated soils, subsoils and inerts. A Waste Management Licence or an Approved Registered Exemption may be required.

All oil storage facilities , including any temporary or mobile containers utilised during or subsequent to the development, must comply with the Control of Pollution (Oil Storage) (England) Regulations 2001.

Further guidance can be found in the Environment Agency's Pollution Prevention Guideline Notes listed below.

PPG 01 General guide to the prevention of water pollution

PPG 02 Above ground oil storage tanks

PPG 06 Working at construction and demolition sites

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

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com Severn Trent Water advice that there are public sewers located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 2003 and you may not build close to, directly over or divert a public sewer without consent.

The applicant is advised to contact Severn Trent to discuss their proposals.

The applicant should note:-

- 1) That the granting of planning permission is not consent to divert or obstruct a public way of way, the route must therefore remain open, unobstructed and its legal alignment at all times both during and on completion of the development. This also applies to the obstruction of the route by parked vehicles, plant and equipment.
- 2) Consideration should be given at all times to members of the public using the footpath. It would be preferable for the path to remain open during the works, however, a temporary closure of the route may be granted during the construction phases if a risk to public safety is identified. The applicant should contact the Rights of Way Section for further information and an application form.
- 3) There should be no disturbance to the path surface without prior authorisation from the Rights of Way Inspector for the area.
- 4) No structures, for example, fences, gates or barriers may be installed on the path without prior authorisation from Derbyshire County Council's Rights of Way Section. The applicant should liaise with at their earliest opportunity with both Anna Chapman and Gill Millward.

Any vegetation clearance and demolition should be carried out to avoid the bird breeding season which extends from March to late August.

Item 1.3

Reg. No. 9/2010/0715/SOF

Applicant:

D'zign UK (Swadlincote) LTD
16 Victoria Centre
Pride Park
Derby

Agent:

Signet Planning Ltd
Strelley Hall
Nottingham

Proposal: **THE ERECTION OF A COUNCIL WORKS DEPOT AT
TETRON POINT WILLIAM NADIN WAY SWADLINCOTE**

Ward: **NEWHALL AND STANTON**

Valid Date: **02/08/2010**

Reason for committee determination

The application is brought before the Committee at the discretion of the Head of Community and Planning Services as it is a major application which provides a new facility for the Council.

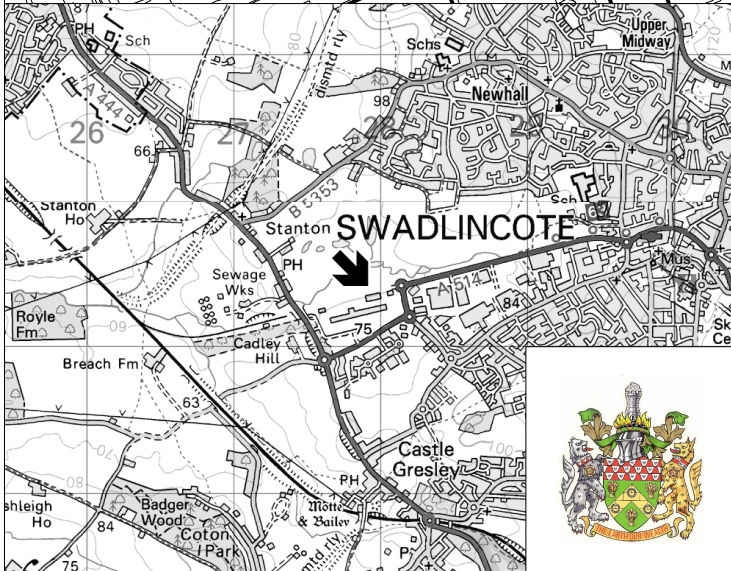
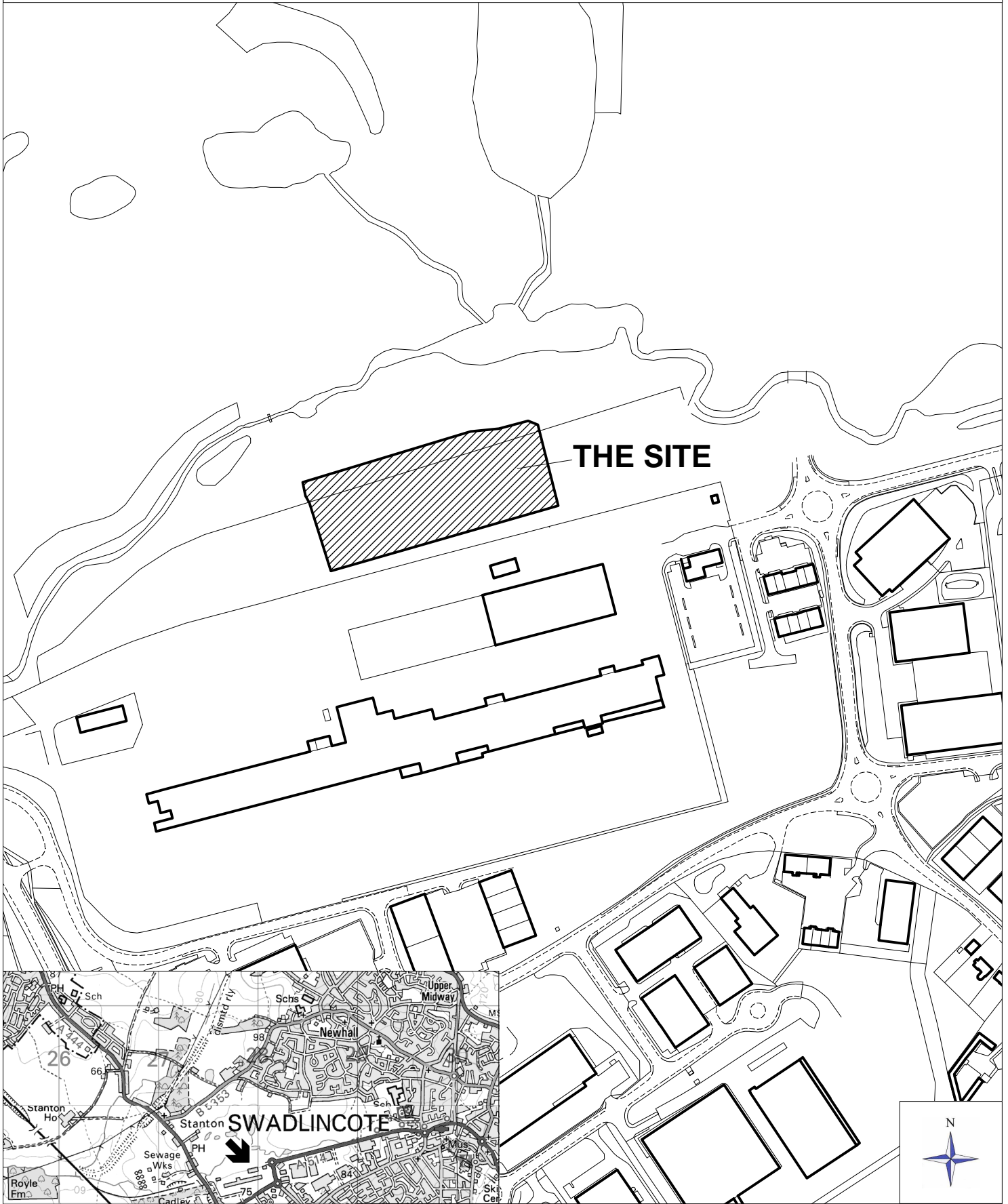
Site Description

This 1.46 hectare site is located on land off William Nadin Way just south of the Bison complex with the golf course site to the north. It would be accessed from the existing roundabout on William Nadin Way. The site forms part of the Tetron Point outline permission originally granted in 2000 except for a 10-12m wide strip adjacent to the northern boundary which is land allocated in the adopted Local Plan under Recreation and Tourism Policy 2 as New Recreation Provision, Swadlincote and protected under Environment Policy 7 Open Land, Swadlincote. The site is 4-5m lower than the Bison site and an attenuation pond adjacent to the northern boundary has a 1.8 – 3.7 m lower land level.

The site is rectangular in shape and would be separated from the boundary with Bison by the proposed access road. Work on the construction of the golf course is progressing on the land to the north, north east and north west with the nearest residential properties being on Woodview Road, Newhall.

Proposal

Permission is sought for a two storey office and workshop building, a ground maintenance building, motor workshop, wash down enclosure, street sweeper storage building, material storage areas, bin storage and a housing compound.



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South Derbyshire District Council. LA 100019461. 2010

The proposed layout would have a 4.5m landscaping strip adjacent to the eastern boundary then a car parking area with 51 spaces, 4 disabled spaces, 8 motorcycle spaces and 20 cycle spaces. The office/workshop building would measure 21m x 41m of a height of 9.2m and would be in the eastern part of the site. The main entrance would face south and the building would predominantly be timber clad with sections of mirco rib cladding. Half of the building would be for office and staff accommodation and the other half for storage and a joinery workshop with a bio-mass boiler.

The grounds maintenance building would measure 41m x 17.6m with an eaves height of 5m and ridge height of 6m and would be located in the north western part of the site. It would be timber clad with timber sliding doors and would store 8 ground maintenance vehicles with trailers plus some storage areas. The motor transport workshop would measure 25.3m x 17.6m with an eaves height of 8.7m and a ridge height of 10.2m. This building is proposed adjacent to the southern boundary and to the west of the entrance to the depot yard area. It would be colour finished vertical ribbed composite cladding and would house a vehicle storage ramp, vehicle hoist and inspection pit with storage areas. The street sweeper building would be adjacent to the motor transport workshop and would be a small scale timber clad structure.

Various compounds and storage areas are proposed to the west of the office / workshop building within the depot yard area together with 12 transit van bays and 8 spaces for refuse vehicle parking. A 10 – 12 wide strip of land adjacent to the northern boundary which is included within the E7 area would provide a landscape buffer from the open land to the north. Extensive tree planting is proposed in this area as the land level of the site is higher than the attenuation pond.

Finished floor levels for the motor workshop and offices/workshop buildings are proposed at 68.450 and the grounds maintenance building would be 68.2. Sections through the site have been produced which indicate in the western part of the site between the access road and northern boundary a change of 1.7m and this drops a further 1.5m at the attenuation pond. In the middle of the site, levels drop 1.39m between the road and the northern boundary and a further 0.5m adjacent to the pond. The eastern part of the site drops 2.3m across the site from south to north and a further 1.4m beyond this boundary.

Applicants' supporting information

The Ecology Report concludes that the existing habitat on the site has a low ecological value. There was no evidence of protected species on site. There is however, a potential for grass snakes to be present within the narrow band of grassland bordering the northern edge of the site. A method statement for grass snakes has been produced which would be implemented during the works. A range of enhancement measures has been put forward to increase the nature conservation value of the site in the long term.

The Site Investigation report states that no elevated levels of contaminants have been found.

The Flood Risk Assessment states that the site falls within Flood Zone 1. The report concludes that the development area can be drained in a manner that will ensure no increased risk of flooding to the development or its environs.

The Transport Statement states that the nature of the Depot operations are such that travel is generally outside peak hours on the network. 90% of the 88 employees at the existing site live within 5km of the site and this is anticipated to remain the case. It would be expected that a maximum of 2 deliveries would take place each day. It is noted that the principal travel to and from the site within peak hours of 0800-0900 and 1700-1800 is restricted to office staff arriving and departing. The report concludes that the highway authority has agreed that the existing highway network is of sufficient standard to accommodate the development. The use of the development is such that the majority of travel to and from the site is outside peak hours of 0800-0900 and 1700-1800.

A Travel Plan has been prepared for the development to encourage transport modes other than the private car, and provision has been made within the development for cycle and motorcycle parking and staff showers. Measures such as increasing bus routes in this area together with car sharing with incentives and targets for increasing use of modes other than the car are proposed.

The Utilities Assessment concludes that the availability of utility services has been examined and capacity is available without impacting on the existing network.

A Design and Access Statement states that the design of the scheme reflects the use of modern materials associated with industrial developments with a degree of timber cladding incorporated on buildings that will be viewed from the north of the site, adjacent to the open land. The materials chosen will have a sustainable life span of at least 25-30 years. The scheme is also to achieve a "very good" rating under the BREEAM Accreditation system.

Planning History

9/2009/0527 –The variation of condition 11 of planning permission 9/2006/0329 revised landscaping layout, Granted 10/09/09

9/2009/0355 - Approval of reserved matters of application 9/2006/0329 for siting, design and external appearance of golf clubhouse, administration building and driving range, associated leisure building and hotel together with associated parking, access and landscaping, granted 26/08/09

9/2008/0489 - Change of use from open space to B1, B2 & B8, Undecided

9/2008/1048 – The approval of reserved matters for construction of the access road within outline permission (9/2000/0415), Granted 5/12/08

9/2006/0329 - Variation of conditions 2, 3, 6, 7, 10, 13, 14, 17 and 18 of 9/2000/0415/O Removal/Variation of Conditions Granted 12/05/2006

9/2005/0833 - Application under Section 73 to vary condition 2 of planning permission 9/2000/0415 to allow the development approved under reference 9/2004/1535/DM to be implemented in advance of the approval of reserved matters on other parts of the site - Removal/Variation of Conditions Granted 05/09/2005

9/2005/0715 - The variation of condition 6 of planning permission 9/2000/0415 to allow the gross floor area within the site identified on the attached plan to exceed the

'Summary Schedule of floor areas' shown on drawing 99113 SK1 -- Removal/Variation of Conditions Granted 01/08/2005

9/2005/0586 - The variation of condition 1 of planning permission 9/2000/0415/O in order to extend the time period in which to submit reserved matters, Removal/Variation of Conditions Granted 01/07/2005

9/2000/0415 - Outline application (and Environmental Impact Assessment), (all matters other than means of access to be reserved) for the use of land for Business (B1 Use Class), Industrial (B2 Use Class), Storage and Distribution (B8 Use Class) and Leisure Use (Hotel, Drive-Through restaurant, Golf Course (Including Ancillary Facilities) at Land At Tetron Point (Former Nadins Site) Granted 31/01/2002

Responses to Consultations

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

The County Highways Authority has no objections subject to conditions relating to the provision of a construction site compound and wheel cleaning facilities, the access road, laying out of the parking and manoeuvring areas.

Natural England has no comment to make because they do not feel that the proposals are likely to significantly affect the natural environment.

Derbyshire Wildlife Trust generally concurs with the conclusion reached within the Ecological Report that the majority of the site is of limited ecological importance but they are of the view that the timing of the site visit may have placed constraints on the accuracy of the results. The site may have the potential to meet the criteria for the UK BAP priority habitat 'Open Mosaic Habitat on Previously Developed Land'. They advise that a botanical survey of the site should be undertaken prior to commencement of development to include the areas to the immediate west and east of the proposal and that biodiversity enhancement through habitat creation and management of the grassland areas to the north around the attenuation pond be undertaken. Habitat creation for invertebrates and reptiles should be provided within the landscaped areas through use of rough grassland and ephemeral/short perennial vegetation.

The Environment Agency has no objection subject to the implementations of measures outlined in the Flood Risk Assessment in relation to surface water run-off and finished floor levels by condition.

Derbyshire Constabulary Crime Prevention Design Advisor (PCPDA) considers that the layout should have been designed so as to provide clear open views into and through the site, although CCTV is a measure that can mitigate this lack of surveillance. He makes various suggestions regarding improving the site to help prevent crime.

The Environmental Health Manager states that given the location of the development, any noisy aspects of which are over 350m away from the nearest residential property, there are no concerns in relation to noise emanating from the site. As a result there is no objection to planning permission being granted.

The Contaminated Land Officer states that previous desk studies and site investigation reports have been compiled for Tetron point, some of these reports have encompassed

this site. The reports have highlighted potential contamination issues with respect to filled ground, former fuel storage and ground gas issues. The reports have indicated that the site would be suitable for the proposed development, however further investigation is required to fully characterise the risk posed to end users and to design suitable mitigation measures where necessary. A phased contamination condition is therefore recommended.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policies 7, 10 and 11, Employment Policies 2 and 8, Recreation & Tourism Policy 2, Transport Policies 6 and 8.

National Guidance

PPS 1, PPS4, PPS9, PPG13, PPS23, and PPS25.

Planning Considerations

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

- Principle of Development
- Design and Materials
- Visual Impact
- Highways Issues
- Landscaping and Ecology Issues
- Crime Prevention Issues

Planning Assessment

The Principle of Development

The principle of development on for the majority this site was established by the granting of outline permission 9/2000/0415 in 2000 for B2 and B8 industrial uses. Although the proposed use is mixed and probably sui generis, it fits closest to use class B2 general industry. Reserved matters permission was granted for the access road in 2008.

The 10-12m wide strip adjacent to the northern boundary to which Local Plan Environment Policy 7 open land applies was not covered by the outline permission. This policy states that '*open land that makes a valuable contribution to the character and environmental quality of Swadlincote... shall be safeguarded from development*'. Approval is sought for it to be used as a landscape buffer/storage area for the proposal, which although a departure from the development plan, it would not contain any buildings and would screen the facility from the remaining open land bounding it to be used as a golf course. This is considered to be acceptable as the use of this land for this purpose was the only solution due to the tight confines of the site and facilities required to accommodate the new depot. With regard to Recreation & Tourism Policy

2, the loss of such a small strip of land will not have an adverse impact given the much wider area which the designation covers.

Design and Materials

The design concept employed in this proposal is as a result of pre-application negotiations where it was felt that the buildings should reflect their National Forest context through the use of timber cladding on the majority of the buildings that were to be visible from the surrounding open land. This concept was also included in the design of the golf course complex of buildings that will be built to the north east of the site. The building forms are simple and functional, however, the main elevations of the office/workshop building would be a mix of cladding together with full height glazing to break up the mass of the building on the eastern elevation. The motor workshop has been positioned in an area of the site where it would not be highly visible from the open land and as such its style and proposed materials reflect that of the existing industrial buildings to the south. The type and colour of all cladding sections can be controlled by condition to regulate the quality of the materials and appropriate colours.

Visual Impact

The main long distances views would be afforded from Newhall to the north and A444 to the west. The site is raised above the land immediately to the north, however, the site is 4 to 5m below the land level of the Bison complex of large high industrial buildings. All the proposed buildings are low level buildings of heights between 6 to 10.2m. All surrounding land to the north is currently being shaped into the golf course and land immediately to the west and east has an extant permission for industrial development. All the elevations of the buildings that face to the north and west would be clad in timber to reduce their visual impact on the surrounding open areas and the proposed 10 -12 m wide landscape buffer with extensive tree planting would help to screen the proposal.

Short distance views of the site would be gained when travelling west along William Nadin Way and from the roundabout. The only building that would be visible from this direction would be the offices and workshop building which would be set 35 m from the eastern boundary and there would be a 5m wide landscaped area adjacent to this boundary to provide some screening. A significant part of the eastern elevation of this building would be timber clad to soften its visual impact.

Highway Issues

A large part of the highway issues were addressed in the granting of permission for the access road in 2008 which also provides access to the industrial permissions to the east, west and south of the site. The approved access layout involves completion of the road for a stretch of 78m from the existing roundabout and an access 50m from this roundabout to the west. On the advice of the County Highways Authority the access is acceptable.

Landscape and Ecological Issues

An amended landscaping scheme has been submitted which now includes the 10-12m landscaping buffer and incorporates recommendations from the Council's Landscape Consultant and the PCPDA. This proposed scheme is considered to be acceptable in terms of the tree planting within the landscaping buffer adjacent to the northern

boundary and the overall National Forest context together with provision of habitat recommended by Derbyshire Wildlife Trust.

The Ecology Report concluded that the existing habitat on the site has a low ecological value and no evidence of protected species on site was found. A range of enhancement measures have been put forward to increase the nature conservation value of the site in the long term for example the provision of bird and bat boxes together with habitat creation in the landscaped areas which can be secured by condition. Derbyshire Wildlife Trust refers to further work required outside the application site which is not within the control of the applicant. The attenuation pond and area surrounding it is part of the golf course and sufficient habitat creation and management will be implemented as part of that permission.

Crime Prevention Issues

In terms of crime prevention measures, CCTV will be provided on site and a lockable gate provided for the car parking area. The perimeter fencing has been increased to 2.4m in height and a condition requiring details to ensure it would not have a significant impact on the visual amenity of the area is recommended. The fuel storage tank will be fitted with anti-siphon devices and as mentioned above the landscaping scheme has incorporated as much as possible of the Police's comments in relation to defensible planting to deter intruders. Ditches were not able to be incorporated due to the slope between the northern boundary and that of the attenuation pond, however, thorny shrubs are incorporated in the landscape buffer.

Conclusion

With the other developments set out in this agenda, the development is a crucial part of the planned redevelopment of the depot to facilitate the Council's delivery of essential services in the district on a site which is located in an area of similar uses with good transport links making it ideal for its purpose.

Recommendation

GRANT permission under Regulation 4 subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no 6648/OS 1B, 6648/P 01 C, 6648/P 02 A, 6648/P 03 A, 6648/P 04 G, 6648/P 05 A, 6648/P 07 A, 6648/P.08 and A1/HMP/SDDC/DHB/TP02 A

Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Development shall not commence until a surface and foul water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development,

has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- Limiting the surface water run-off generated by all rain fall events up to the 100 year plus 20% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of a minimum of surface water run-off attenuation storage on site to accommodate the difference between the allowable discharge rate into the existing surface water drainage system and all rain fall events up to the 100 year plus 20% (for climate change) critical rain storm.
- details of how the scheme shall be maintained and managed after completion

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

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

4. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision A, Dated May/June 2010, Ref: 9708 Rev A, undertaken by William Saunders and the following mitigation measures detailed within the FRA:

(1) Sections 6.1 and 7.0 Limiting the surface water run-off generated by all rain fall events up to the 100 year plus 20% (for climate change) critical rain storm so that it will not exceed but reduce the run-off from the site and not increase the risk of flooding off-site.

(2) Section 6.3 Provision of a minimum of surface water run-off attenuation storage on site to accommodate the difference between the allowable discharge rate into the existing surface water drainage system and all rain fall events up to the 100 year plus 20% (for climate change) critical rain storm, generated on the proposed 1.385ha development (shown as 1.626ha on drawing No. E9708(SK)15A).

(3) Section 6.3 Provision of a non-return valve (flap), flow control device and minimum of surface water run-off attenuation storage within the existing off site attenuation basin, to limit the discharge into the Darklands Brook, whilst accommodating the difference between the allowable discharge rate from the attenuation basin and all rain fall events up to the 100 year plus 20% (for climate change) critical rain storm, generated by the Tetron Point and Cadley Hill areas (total 27.2ha).

(4) Section 6.4 Finished floor levels are set no lower than 150mm above proposed external finished ground levels or adjacent roads whichever is the greater.

(5) Section 4.2 Construction of a minimum 4m wide access way to the existing surface water attenuation basin, as shown on drawing No.6648/p 04G.

Reason :To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

5. The development hereby permitted shall not be commenced until such time as a scheme to ensure sufficient access to and around the existing surface water attenuation basin has been submitted to and approved in writing by the local planning authority. The scheme, as shown on drawing No. 6648/p 04G, shall include: -
- 4m wide access track along the eastern boundary of the site.
 - 4m wide clear zone between the development and the attenuation basin to facilitate access to all sides of the basin.
 - ensuring the proposed landscaping scheme, including any tree planting and their associated canopy (when fully grown), does not encroach within the above access track and clear zone.
 - details of how the scheme shall be maintained and managed after completion.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason : To prevent flooding by ensuring maintenance access to the existing off site attenuation basin thereby reducing the risk of flooding and to reduce the risk of flooding to the proposed development and future occupants.

6. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

7. Prior to any other works commencing, space shall be provided within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority and maintained throughout the contract period free from any impediment to its designated use.

Reason: In the interests of highway safety.

8. Prior to the development being brought into use the new roads shall be formed between the site and William Nadin Way and laid out in accordance with the drawing (E9708(9)01A) approved under consent granted for application 9/2008/1048.

Reason: In the interests of highway safety.

9. Prior to the premises being taken into use, the accesses, parking and manoeuvring space shall be laid out in accordance with application drawing 6648/P04G and maintained thereafter free from any impediment to its designated use.

Reason: In the interests of highway safety.

10. The site clearance work shall be carried out in accordance with the Method Statement in relation to grass snakes enclosed within the Ecological Assessment.
Reason: In the interests of safe ecological practices.
11. Prior to the occupation of any of the buildings bird and bat boxes shall be positioned on buildings in accordance with a scheme first submitted and approved in writing by the Local Planning Authority and retained for the life of the development.
Reason : In the interests of ecology.
12. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: In the interests of the appearance of the area.
13. No 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 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.
14. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

16. Prior to commencement of development details of the proposed 2.4m high security fencing shall be submitted and agreed in writing by the Local Planning Authority. The fencing 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 crime prevention and the visual amenity of the area.

Informatives:

The application site lies within Flood Zone 1 as defined by Planning Policy Statement 25 as having a low probability of flooding. However, the area to be positively drained is over 1ha in size and therefore the proposed scale of development may present risks of flooding off-site if surface water run-off is not effectively managed.

The proposed on site surface water drainage system should be designed to the Sewers for Adoption, 30 year standard or similar, which is acceptable in principal. However, the Environment Agency require additional details to confirm that surface water systems will operate without flooding during the 30 year rainfall event, and not flood or leave the proposed site during the 100 year or 100 year plus 30% for residential, 20% for commercial (for climate change) rainfall event.

For sites over 1ha in size, the Environment Agency will need to see the plan and calculations in support of the on site surface water drainage system (ie, microdrainage output for the 30 year, 100 year and 100 year plus 30% for residential, 20% for commercial (for climate change) rainfall events, including pipeline schedules, network information and results). To demonstrate that no flooding occurs to the proposed development or surrounding area from the above rainfall events.

If the system surcharges the Environment Agency would wish to see a detailed plan (location of any surcharging should be identified as should any resultant overland flood flow routes) and calculations for any surface flooding, including flood flow routes, expected depths, and confirmation that this would not cause flooding to nearby properties. Any excess surface water should be routed away from any proposed or existing properties.

In addition the Environment Agency would like to see any calculations (ie, microdrainage output for the 30 year and 100 year plus 30% for residential, 20% for commercial (for climate change) rainfall events) in support of any on site surface water attenuation system including sizing and any hydrobrake details and design.

If the applicants or agents wish to discuss this position with us, they should contact Sarah Mallett Development and Flood Risk Officer Tel: 01543 405029 .

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Environmental Services Department at County Hall, Matlock (tel: 01629 580000, ext 38595) before any works commence on the vehicular access within highway limits. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness. For the avoidance of doubt, the Highway Authority will not consider for adoption the roads serving the site off the William Nadin Road roundabout.

Severn Trent Water advise that there is a public sewer located within the site. Public sewers have statutory protection by virtue of the The Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are asked to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist in obtaining a solution which protects both the public sewer and the proposed development. For further information telephone 0116 2343834.

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

Item 1.4

Reg. No. 9/2010/1113/SSO

Applicant:
D'ZIGN UK (SWADLINCOTE) LTD
D'ZIGN HOUSE
16 VICTORIA CENTRE
PRIDE PARK
DERBY

Agent:
SIGNET PLANNING LTD
NOTTINGHAM

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT
ACCESS AND LAYOUT RESERVED) FOR TWO NON-
FOOD RETAIL UNITS, DENTAL SURGERY,
IMPROVEMENTS TO DARKLANDS LANE, ACCESS,
ANCILLARY WORKS AND DEMOLITION OF COUNCIL
DEPOT AT COUNCIL DEPOT DARKLANDS ROAD
SWADLINCOTE**

Ward: **SWADLINCOTE**

Valid Date: **03/12/2010**

Reason for committee determination

The site is owned by the Council and the application is Regulation 4 development.

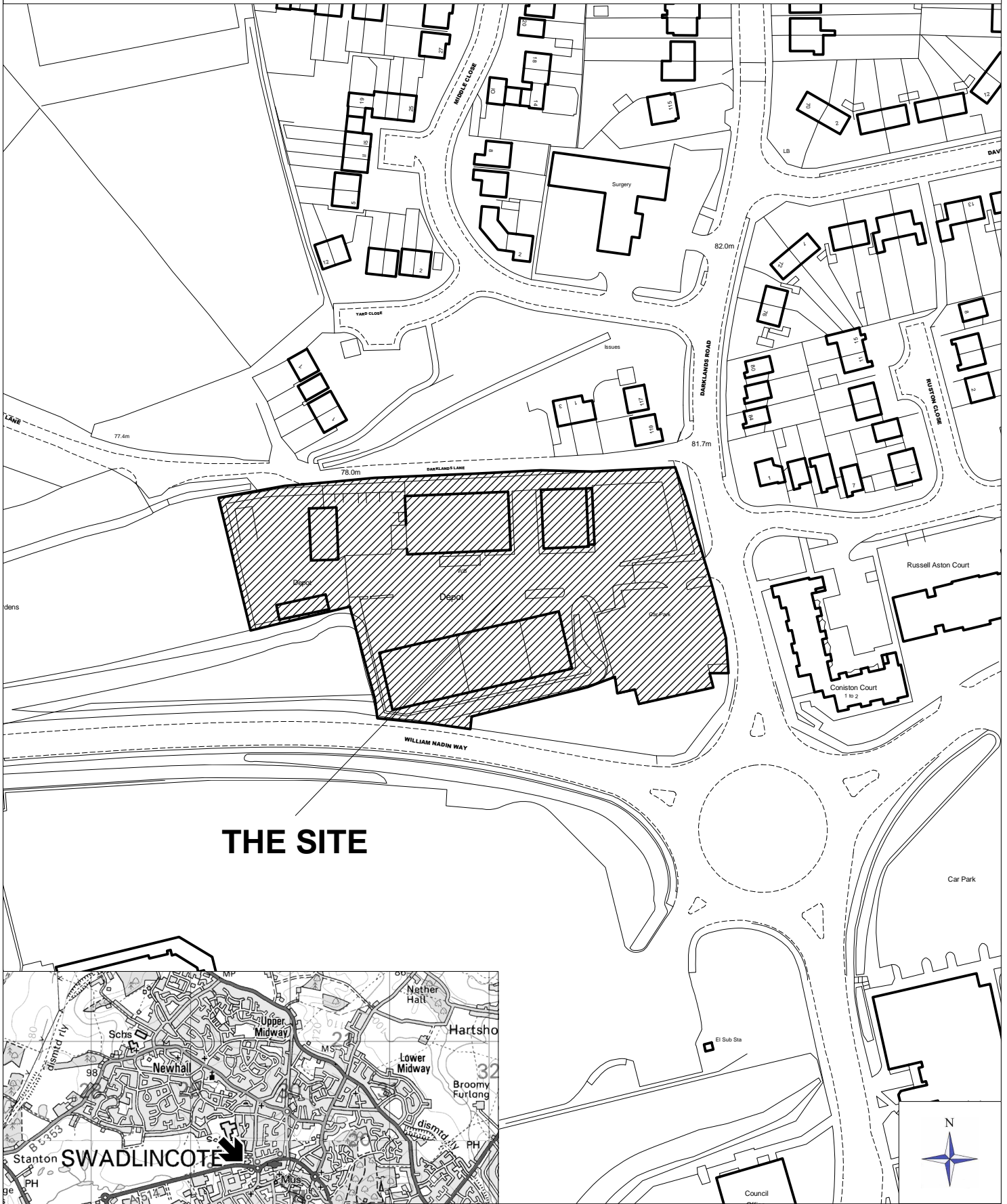
Site Description

This 0.928 hectare site is located on the corner of Darklands Road and Civic Way on the main route through Swadlincote. There is a grassed area with trees owned by a third party that is immediately adjacent to the Civic Way roundabout which is not within the site boundary. The site includes all the existing Council depot buildings and the car park. The site extends 26 m in length along Darklands Road, 44m adjacent to Civic Way and William Nadin Way and 57m along Darklands Lane. Residential flats for the elderly are opposite the site on Darklands Road and there are residential properties to the north over Darklands Lane. Allotments and the Darklands Brook corridor bound the site to the west.

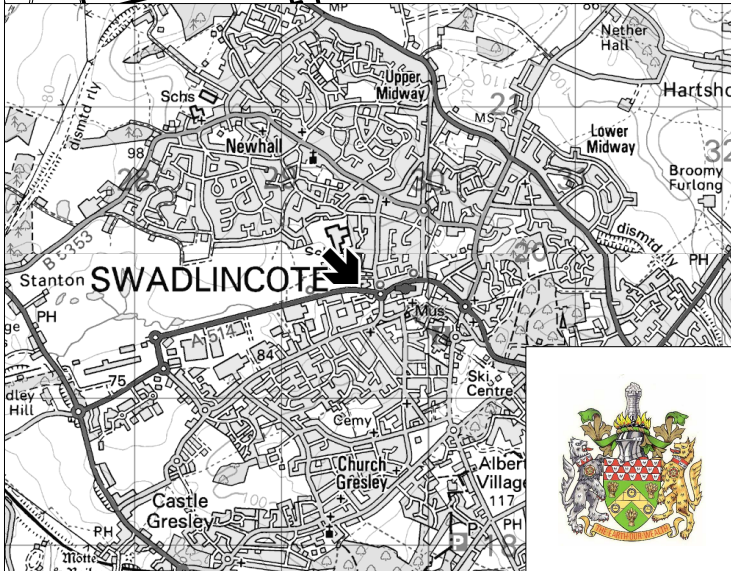
The land levels of the site vary considerably and the car park part of the site is approximately 2m lower than the Civic Way roundabout road level. The south eastern corner of the site is 6m lower than the north west corner. Along Darklands Road the south eastern corner is 2.5m higher than the north eastern corner.

There are 21 individual trees on site with two groups of Leyland Cypress. There are nine trees on the boundary with the Civic Way roundabout that are on land outside the site area. The majority of the trees are on the southern and northern boundaries, however, there is one Norway Maple on the Darklands Lane frontage.

9/2010/1113 - Council Depot, Darklands Road, Swadlincote DE11 0PQ



THE SITE



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South Derbyshire District Council. LA 100019461. 2010

Proposal

The proposal seeks to redevelop the existing depot site the current buildings of which are unsightly on this prominent site located at a 'gateway' to Swadlincote town centre. The existing buildings are no longer fit for purpose and a proposed new depot further west along William Nadin Way adjacent to Bison is the subject of a separate application on this agenda.

Outline permission is sought including layout and access with appearance, landscaping and scale as reserved matters. The proposed layout indicates a 1085.1 sq m (11.680 sq ft) retail unit 2.5-3.5m from the Darklands Lane frontage, set into the corner with Civic Way. A small building to house a dentist's surgery (currently located elsewhere in the town) is proposed to the north of this building set back 9.5m from Darklands Lane. Car parking and a servicing area is proposed in the centre of the site with the remaining 1721.9 sq m (18,535 sq ft) including mezzanine floor DIY store building proposed in the north western corner adjacent to Darklands Lane. Access to the site would be via Darklands Lane and thus this road would have to be improved accordingly. Two accesses into the site would be off Darklands Lane. Staff parking and servicing areas would be separate from the main car park located in the south western part of the site.

88 car parking spaces are proposed in the main car park including 6 disabled spaces. An overspill car park accommodates 7 spaces and there would be 12 spaces provided for staff. 15 cycle racks are proposed with 5 per building adjacent to the entrances.

The existing Norway Maple tree on the Darklands Road frontage would be retained to the front of the proposed dentist building, all trees on the northern boundary would be removed for the widening of Darklands Lane together with 7 trees and the two groups of Leyland Cypress in the south western part of the site. The line of Leylandii along part of the William Nadin Way boundary would also be removed.

The proposed sections submitted indicate that the retail building on the frontage of Darklands Lane would be approximately 6m high, however, due to the land levels this would be only be 2-2.5 m higher than the William Nadin Way road level. The proposed dentist building would be 5m in height and the DIY Store 8 m in height. However, as scale is a reserved matter these heights are indicative only.

Applicants' supporting information

The Planning Support Statement describes the site in terms of the four corners of the Civic Way roundabout with Council Offices and Leisure Centre set back with car parking and landscaping on the boundary, the newly extended Sainsbury's set back with car parking and landscaping and Coniston Court a residential use set close to the highway opposite the site. It states visas of the site from the four arms of the roundabout are fairly limited with views from William Nadin Way and Hearthcote Road screened by landscaping. The proposal involves closing the existing access and having two accesses via the upgraded Darklands Lane. Darklands Lane is an adopted highway although the surface is poor and there is limited street lighting. This road would be upgraded to provide a 6m wide carriageway with 2 no. two metre wide footways. Cycle route 63 would follow the route of Darklands Lane. The proposed new access would have 2.4m x 90m splay to the north and a 2.4m x 85m splay to the south. The widening of Darklands Lane shall result in the loss of all trees on the northern boundary.

An assessment of the relevant planning policy includes PPS1, PPS4, PPG13, Local Plan Shopping Policy 1 and Transport Policy 6. It recognises that another material consideration is the fact that this is one of three linked applications, the other two being the residential site to the north west and the proposed new depot site to the west at Tetron Point. It identifies that the existing depot site is no longer fit for purpose and this proposal provides the opportunity for the new depot to come forward. The Council owns the application site and the William Nadin Way frontage of the housing site. Both this application and the housing site would facilitate a new depot facility for the Council. The proposal also provides a new community facility in the Dentist's surgery.

The PPS4 Retail Assessment assess the scheme against Policy EC10 in PPS4 and in relation to the e) the impact on local employment states the retail uses are likely to generate 24 jobs and the dentists 5, giving a total of 29 jobs. In relation to Policy EC15 (sequential assessment) it identifies the site as 'edge of centre' with a distance of 280m from the High Street. Alternative sites that were considered include the former Woolworth's on High Street and the former Kwik Save site on Alexandra Road. However, these were considered to be inappropriate and unsuitable for the development proposed. In terms of the ex Woolworths building, it is too small to accommodate the retail warehousing and entirely inappropriate for the proposed dental surgery without seriously undermining the purpose and function of the retail core. The ex-Kwik Save building, although larger than the Woolworths building, is still too small to accommodate the retail development proposed. In locational terms, Hepworth Works site is also "edge of centre". The site has nevertheless been considered as part of the sequential test. Recent revisions to the development have secured occupants for most of the retail units. Whilst there are a few vacant units remaining, these are of a significantly smaller scale than the two retail warehouse units proposed for Darklands Road.

The Retail and Leisure Study of 2005 identified a number of other sites that may present opportunities to enhance the town centre. However, the Study concluded that many of the sites were unviable for retail development, particularly for the nature of development proposed.

This report also considers that an important consideration is the "enabling role" of the development proposed. Development of the application site would assist in bringing forward a large housing scheme on land adjoining, and would provide the Council with a purpose built depot – a facility which would not come forward in any other way in the foreseeable future. It is clear that development would see significant wider regeneration benefits accruing to Swadlincote.

In terms of impact assessment, the impact on the Hepworth's site and Sainsbury's has been considered and is not significant. In terms of the Darklands Road application proposal, Swadlincote town centre would experience a trading impact of no more than 2.8% upon the town's comparison goods turnover in 2013, equating to around £1.2912m. The scale of impact would be well within acceptable limits and would cause no change to the range of retail services and facilities available within the town centre and would not change their quality, attractiveness or character. The report concludes that a thorough assessment against the more recent policies contained within PPS 4 has been completed and this demonstrates that the site will not adversely impact on the town centre vitality or viability. Furthermore there is sufficient retail demand within the catchment to justify additional retail development. Sequentially it is a well located site.

The Transport Assessment states that Darklands Lane's existing junction with Darklands Road accommodates only small volumes of traffic, currently. It is proposed to improve this junction to accommodate that traffic routing to and from the mixed-use development within the site. This would include the widening of Darklands Lane and improvement of its junction with Darklands Road. The proposed development would generate a quantum of traffic on the local highway network but this would not be of sufficient quantity to create either road safety or highway capacity impacts. These conclusions have been confirmed by assessment of the performance of junctions using industry-standard tools and through an examination of the road safety record. The site's location would make it inherently sustainable with nearby bus stops, bus station and services and facilities all within walking distance.

The Ecology Report states that there is a historical record of a common lizard on the Council Depot site and grass snakes have been recorded on the adjacent site. A Phase 2 reptile survey was considered necessary. The report confirms that there are no habitats of international, national or county importance that would be directly affected by the proposal. The majority of the species recorded on the site can be described as common or abundant and are found in similar places across much of southern Britain and no protected species were found.

The Reptile Survey concludes that as the majority of the site is dominated by buildings and hardstanding it provides very limited habitat for reptiles and thus none were found. The Darklands Brook corridor is to be retained with suitable buffer zones and the recommended method statement should be followed.

Landscape and Visual Assessment states that due to the mixture of building styles within the council depot it is considered that they contribute to a general negative landscape character and their removal would be considered beneficial. The study of the potential impact that development may have on i) the site itself, ii) the character of the surrounding area and, iii) views afforded of the site from the surrounding locality, concludes that the land and the surrounding landscape are considered to be of low sensitivity to change and development may therefore be appropriate. Development would not be of detriment to the surrounding landscape character due to the presence of large scale new development coupled with existing features that are primarily connected to past industrial uses of which the site displays few positive key characteristics. In terms of visual impact, receptors are deemed to be of generally low sensitivity and development of the site would provide an opportunity to enhance its key elements, improve existing boundary vegetation and provide new screen planting that could ultimately benefit receptor views from some locations.

The Tree Survey identifies that there are 21 individual trees on site with two groups of Leyland Cypress. The existing Norway Maple tree (category A high quality tree) on the Darklands Road frontage would be retained to the front of the proposed dentist building, all trees on the northern boundary which are a mix of moderate, low and poor quality Lime, Alder and Rowan trees would be removed for the widening of Darkland Lane and 7 moderate and poor quality Elder and Sycamore trees and the two groups of Leyland Cypress would be removed in the south western part of the site. The line of Leylandii along part of the William Nadin Way boundary would also be removed.

The Utilities Assessment concludes that it has been demonstrated that the availability of utility services has been examined and confirmed that supplies are available for the development without the need for network reinforcement.

The Phase 1 Geo-Environmental Assessment has indicated that further sampling and testing would be required to more precisely target remedial works.

A Coal Mining Risk Assessment (CMRA) was submitted in line with the requirements of the Coal Authority's approach to Development Management.

The Flood Risk Assessment concludes that the proposed development is not at risk of flooding.

Planning History

9/2006/0320 - Outline permission granted (all matters reserved) for the construction of two non-food retail warehouse units, associated garden centre, car parking, landscaping and service arrangements. In this condition 9 reads: *"The site shall accommodate a maximum of two non-food retail units and each unit shall be occupied by a single operator and shall not be subdivided or sub-let". Reason: To protect the vitality and viability of the town centre.*

The submitted drawing indicated one unit of 2,232 sq m with a garden centre to the rear of the site and a smaller unit of 697 sq m located at the front of the site adjacent to Darklands Road. Access was proposed off Darklands Lane.

Responses to Consultations

County Highways Authority raises no objection to the proposal in principle but when compared to the previous retail permission on the site considers that there is a significant shortfall in the parking provision within the site. The Authority appreciates the applicant's assertion that the site is in a central location with sustainable forms of transport but considers that the type of development proposed will attract a majority of car borne customers and that under provision of off-street parking spaces would result in parking on Darklands Lane, on Darklands Road and around the junction, to the detriment of highway safety. The applicant contends that on-street parking generated by the site should be dealt with by way of a Traffic Regulation Order but the Authority points out that the use of TROs is intended to alleviate existing situations not to facilitate development. Developers should seek to ensure that all aspects of a development are addressed at planning stage, including the provision of adequate parking within the site, to prevent future on-street parking with potential highway safety implications.

If Members are minded to approve the application then they should be aware that overspill parking from the development could affect other roads in the vicinity of the site not controlled by TROs or, alternatively the reduced parking provision may deter retailers from occupying the premises. It cannot be guaranteed that a TRO could be successfully implemented since this would be subject to a process under separate legislation, subject to consultation. Therefore if minded to approve then in the interests of highway safety, conditions should be applied relating to the normal conditions relating to space for storage of plant etc, means of preventing extraneous material on the highway, carriageway, footway and junction improvements, visibility splays, gates,

closure of the existing vehicle crossover and provision of car parking, loading etc. space [all of which are attached in full as conditions as part of the recommendation].

Derbyshire County Council's Strategic Planning consultation response is that:

- A) The proposed development is broadly in conformity with national and regional planning policy for town centres and retail developments in Government Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS4), and the adopted East Midlands Regional Plan (EMRP). The Coalition Government is proposing to revoke regional spatial strategies but at the current time the EMRP is still part of the development plan for the area. The comments made by the County Council are provided to the District Council in a technical context to assist in the assessment of the application and the key technical issues in the planning and retail statement.
- B) In terms of the key tests in PPS4, it considers that:
- i) The catchment area which has been defined for the proposed non-food retail development is appropriate and the methodology and assumptions applied in the applicant's Planning and Retail Statement to assess the impact implications of the proposals are considered broadly robust and based on reliable and well respected data sources. However, Government advice in PPS4 requires assessments of impact to be considered over the future five year period, which in this case would be up to 2015. The applicant's assessment, however, only considers the impact effects of the development up to 2013, which is not in accordance with this advice. For certainty, the District Council may wish to seek further information on this issue from the applicant;
 - ii) In the context of the existing role and function of Swadlincote town centre, the proposed non-food retail development and the overall size of the scheme would not be disproportionately large and would generally be of a scale in keeping with the role and function of Swadlincote town centre;
 - iii) In terms of the sequential test, it is considered that the proposed retail development conforms to the requirements of the sequential test because there are no known sequentially preferable sites within Swadlincote town centre which are suitable, viable and available to accommodate the floorspace in the proposed non-food retail development;
 - iv) In terms of impact, it is of concern that the applicant has not submitted any supporting evidence which considers the current health or vitality and viability of Swadlincote town centre, as required by PPS4. Notwithstanding the above, it is considered that the proposed non-food retail units would be likely to have only marginal trading impacts on the town centre's trade overall, which would be unlikely to harm its vitality and viability. In combination with other recent permissions for retail developments on the Hepworth's site and at Sainsbury's on Civic Way, the cumulative impact effects of the developments are considered unlikely to have a harmful impact on the vitality and viability of Swadlincote town centre;
 - v) Given the site's accessible edge-of-centre location with reasonably good pedestrian linkages with the town centre, it is likely that the proposed retail development would claw-back significant amounts of expenditure on comparison goods shopping to the town, which would facilitate additional spin-off trade to town centre businesses to the benefit of the vitality and viability of the town centre overall;

vi) There appears to be sufficient surplus available comparison goods expenditure within the catchment area in 2013 to support the proposed retail development in isolation and in combination with other recently permitted developments. Therefore there appears to be a quantitative need to support the additional floorspace proposed in the extension. Similar to the issue raised in 6.2 (i) above, however, the analysis should be undertaken over the period to 2015. It should be noted that there is no longer a requirement for an applicant to demonstrate need in the planning application process. Notwithstanding this, the main implications of significant levels of surplus available expenditure in the catchment area are that the trading impact effects on competing stores and town centres are likely to be less significant;

vii) The proposed non-food retail units would be likely to have positive wider economic, social and environmental impacts on the area in creating significant numbers of additional new jobs; enhancing social inclusion by providing for improved comparison goods shopping facilities in an accessible location to all members of the community; and being likely to result in a reduction in the length and number of vehicular trips for main food shopping;

C) Subject to the satisfactory resolution of the issues in 6.2 (i) and (iv) above regarding the need for the applicant to consider the trading impacts of the development over the period to 2015, and to provide supporting evidence on the current vitality and viability of Swadlincote town centre, the proposed development satisfies the key requirements of the sequential and impact tests and that the overall positive aspects of the development appear to outweigh the negative aspects. Therefore the proposals are considered broadly compatible with national and regional planning policy on town centres and retail developments.

Natural England has no objection and recommends conditions with respect vegetation removal during the bird breeding season, the removal of Japanese knotweed. Whilst no Bat roosts were found on site, they would wish to see the implementation of recommendation stated within the Ecological Report dated July 2010 as bats were seen foraging in the area.

Derbyshire Wildlife Trust records indicate a historical record for common lizard on the application site and the presence of grass snake on the adjacent site. All buildings affected by the proposal were inspected for evidence of bats and evening emergence/foraging surveys and pre-dawn swarming surveys were undertaken. Although bats were recorded foraging around the council depot buildings, no bats were seen to emerge or return to any of the buildings and the buildings were considered to provide limited bat roost opportunities. A specific reptile survey was undertaken during June and July 2010. No reptiles were recorded during the survey. They note and support the mitigation and enhancement features detailed in the report with regard to the provision of bat roosting features within the development design.

Due to the historic record of common lizard on the site the Trust advise that any works located close to the William Nadin Way road embankment should be carried out carefully in accordance with the Method Statement provided in the reptile report. This requirement should be secured by condition to any permission. They advise that the demolition work should be scheduled to commence to avoid the bird breeding season which extends from March to late August.

The Coal Authority considers that the Coal Mining Risk Assessment correctly identifies that the application site has been subject to past coal mining activity and recommends that intrusive site investigation works should be undertaken prior to development in order to establish whether shallow workings are present and assess the need for stabilisation measures.

Derbyshire's Police Architectural Liaison Officer is content with this application which has a clear, safe and logical layout. Physical security will depend on the end users/use but there is sufficient passive activity to be beneficial to all premises in this area.

The Contaminated Land Officer states that the site has been subject to mining and subsequent infilling; it has also been in use as a depot and previously had a railway line running through it. He recommended that a phased contaminated land condition should be attached.

The Pollution Control Officer has no objection to this application in principle provided conditions requiring a noise assessment, restrictions of any noise generated from any fixed plant and a lighting scheme are attached to any permission.

The Environment Agency does not consider the application to have a high risk to the environment or would offer significant environmental benefit and therefore do not wish to comment further on the proposal.

The Council's Tree Consultant would generally give the trees a higher survey category than the applicant's Tree Survey. The majority of trees are to be removed and more effort with the layout would have ensured their retention. However, the most important Norway maple on the site frontage would be retained.

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

The County Archaeologist recommends that as the site is not identified as a heritage asset in relation to PPS5, no condition is required.

Derbyshire County Council's Greenway Officer has requested the following: a 3m wide shared walking / cycling pavement around the entire perimeter on Darklands Lane, Darklands Road and William Nadin Way, connections into the units and suitable parking provision within the site for cycles [cycle parking is included in the proposal], improved shared pavement on the east side of Darklands Road to the crossing point and provision of a tucan crossing [the existing crossing is already a tucan], allow for onward development from the west end of Darklands Lane to form a continuous connection to the housing site, NCN63 route signage to the west and NCN63 to town centre route signage to the east.

Sustrans suggests 3m wide paths on east and south sides of the site to accommodate shared use to the standards set out in DfT's Circular 2/08 on cycle infrastructure design. On Darklands Lane itself, a shared path on the south side would have the disadvantage of having to cross the two access roads. Besides, unless very high traffic volumes are eventually anticipated, Circular 2/08 would say that riders are best kept on-road in this kind of situation. A transition would be needed to guide riders between the Darklands Lane carriageway and the western-side shared path on Darklands Road (and vice versa).

Responses to Publicity

One objection from the website has been received and the concerns raised are summarised as follows:

- a) The proposal would mean increased traffic to the rear of their home all day and night with HGVs and as they work shifts it would disturb their sleep.
- b) The noise and traffic on Darklands Road is significant and is a concern in terms of safety of school children and is already increased by the granting of planning permission for the surgery extension.
- c) The lighting would affect their home.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: Policies 2, 3, 12, 22 and 48

Local Plan: Environment Policies 9 and 10, Shopping Policies 1 and 2, Transport Policies 6, 7 and 8

National Guidance

PPS 1, PPS4, PPS9, PPG13, PPS23 and PPS25.

Planning Considerations

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

- The principle of development
- Impact on the vitality and viability of Swadlincote Town Centre
- Visual impact on the streetscene
- Impact on residential amenity
- Highway and transport issues
- Trees

Planning Assessment

The principle of development

Retail development has previously been accepted on this site in the granting of outline planning permission for retail development by planning committee on the 22 February 2007. However, permission lapsed in February 2010 and therefore the current application must be considered afresh. Whilst the Local Plan Policies have remained the same since this time, the application requires detailed assessment with regard to Planning Policy Statement 4 (PPS4) published in December 2009.

Impact on the vitality and viability of Swadlincote Town Centre

The Adopted Local Plan (1998) contains two saved policies specifically relating to retail development and impact on Swadlincote Town Centre. Strictly speaking the site does not lie immediately adjacent to the town centre, as required by Shopping Policy 1B, as it is marginally further away than the 300m walking distance from the primary shopping area used by PPS4 and is separated from it by the heavily used A514 and the traffic island. However, neither is it located in what would generally be pictured as an 'out of

town' shopping area to which Shopping Policy 2 would normally apply. However, the aim of both policies is to ensure that the vitality and viability of Swadlincote town centre is sustained and enhanced and they have similar criteria requiring suitable scale and character, acceptable traffic generation and parking and the need to have firstly considered sites within the actual town centre, also that the site in question is not required for business or industrial use. In particular Shopping Policy 1 requires that adequate links to the centre be provided for pedestrians and the disabled.

The East Midlands Plan (EMRP) has similar aims to the Adopted Local Plan in terms of focusing new development within existing centres. Swadlincote is recognised as a Sub-Regional Centre in Policy 3 of the EMRP, identifying its ability to perform a complementary role to the Principal Urban Areas as a result of its size, range of services and ability to accommodate further growth. Policy 22 of the EMRP states that retail development should be located within existing centres, whenever possible, in order to ensure that the viability and vitality of existing town centres is promoted.

The aims of the policies at the local and regional level are covered, and in fact developed further by PPS4. PPS4 sets out the primary objective for development in town centres, namely: promoting the vitality and viability of town and other centres as important places for communities. This is to be achieved by focusing growth in existing centres, enhancing consumer choice and retailer competition and preserving the historical, archaeological and architectural heritage of centres.

This application is required to satisfy policies EC10, EC15, EC16 and EC17 of PPS4, these considerations are detailed below.

Policy EC10 is entitled 'Determining planning applications for economic development'. In relation to criteria A, the Design and Access Statement includes the aim of reducing the overall energy use and maximising the potential for renewable energy supplies and uses. It suggests that as two of the buildings will potentially have flat roofs this would provide a substantial area of solar collection via hot water or PVs and the dentist building has a section of roof that is orientated 30 degrees south for solar hot water or PVs. Heat reclamation is also identified as an option. This is considered to be sufficient to satisfy the criteria at this outline stage. In terms of criteria B, accessibility, it is evident that there is a range of transport choices available near to the site.

Criteria C relates to whether "the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions". The Design and Access Statement has sufficiently identified the active frontages and adequately addressed the proposed buildings' function and relationship with the main road frontages. In terms of massing a strong presence of building on the prominent corner, which was a requirement of both the Planning and Design Excellence Officers, has been achieved. However, whether or not it provides an architectural statement will depend upon the detailed design. Therefore the design principles for achieving a high quality scheme are secured through the proposed layout and the actual design and high quality materials shall be secured at reserved matters stage.

In terms of criteria D, physical regeneration in the area, it is acknowledged that the delivery of this scheme would have a positive impact on regeneration at Swadlincote, as it will assist in delivering related projects (housing, new depot, improved allotments) whilst not endangering the viability of other regeneration projects. Finally, the proposed

scheme would lead to the creation of a greater number of jobs as part of the wider regeneration, impacting positively on local employment.

Policy EC15 is entitled 'The consideration of sequential assessments for planning applications for main town centre uses that are not in a centre and not in accordance with an up to date development plan'. The applicants have thoroughly assessed sequentially preferable sites in both the town centre and on the edge of the town centre for their availability, suitability and viability. The applicants have sufficiently demonstrated flexibility in terms of: scale; format; car parking provision, and the scope for disaggregation.

Policy EC16 is entitled, 'The Impact Assessment for planning applications for main town centre uses that are not in a centre and not in accordance with an up to date development plan'. There are six impacts to consider the application against and they are assessed below.

a) *The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal*

The applicants report demonstrates that the proposed scheme will not negatively impact on the main committed and/or planned private sector investments at Swadlincote town centre (Hepworth's).

b) *The impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer*

The applicant's documentation demonstrates that there will be a limited negative impact on Swadlincote town centre. However, the report also demonstrates that the scheme will assist in expanding the retail and leisure offering of Swadlincote. The full range of end users is not yet known as the application is outline therefore it is not possible to quantify any positive or negative impacts on the quality of the retail offer.

c) *The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan*

There are no retail sites allocated in the 1998 South Derbyshire Local Plan on which to impact.

d) *In the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy*

The applicants report indicates that, given a set of reasonable assumptions, the revised proposal will have a limited negative impact upon Swadlincote town centre of 2.8% comparison goods trade draw in 2013, which is within acceptable limits. The guidance asks for figures to be taken into account for up to 5 years, which would mean 2015. However, the applicant argues that given there will be more population and more expenditure per head of population and thus the impact beyond 2013 will be less not more.

- e) *If located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres*

The proposed scheme is considered to be in scale with surrounding uses and the town centre.

- f) *Any locally important impacts on the centres under policy EC3.1e*
No locally important impacts have been defined in South Derbyshire.

Policy EC17 states that planning applications should be refused where the requirements of the sequential test have not been met or there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of Policies EC10 or EC16.

In this case the sequential assessment is considered sufficient, as it has looked at the available sites in the town centre and on the edge of the centre for their suitability, availability and viability. In addition, although the applicants report appears to demonstrate adverse impacts on Swadlincote town centre, these impacts are considered to be within acceptable limits. However, one point should be noted, the applicants have considered their site to be in an 'edge of centre' location. PPS4 defines this as: 'For retail purposes, a location that is well connected to and within easy walking distance (i.e. up to 300 metres) of the primary shopping area.' The site is more than 300m walking distance from the primary shopping frontage; furthermore, the site is separated from the town centre by the heavily used A514 and the traffic island onto which the applicant site joins. As the site is only just outside the PPS4 threshold and there are no 'out of centre' sites, which are sequentially preferable the proposal is considered acceptable and meets the criteria of PPS4.

Given this viewpoint the application should be considered by taking account of the positive and negative impacts in terms of Policies EC10 and EC16 and the likely cumulative effect of recent permissions.

Although the County Council considers that the applicant has not provided supporting evidence on the current vitality and viability of Swadlincote Town Centre, it considered that even without a full analysis of Swadlincote's health, the applicant has demonstrated that there will not be a significant adverse impact on Swadlincote town centre as a result of the proposed development. In comparison to the Council's latest town centre data, Swadlincote is performing above National averages in terms of vacancy (11% Swadlincote, 14.5% National) and significantly better in terms of Regional levels (11% Swadlincote, 19% Midlands).

Visual impact on the streetscene

The application is in outline only and as such only the design principles can be considered at this stage. The main principle was achieving a presence of building on the corner of William Nadin Way and Darklands Road with active frontages on these elevations and this is indicated in the layout and within the Design and Access Statement. A corner building was considered to be key in establishing a strong character and sense of place on the main vehicle route around Swadlincote centre. Buildings would be prominent on site rather than any landscaping or car parking thus enhancing the public realm and visual linkages to the town centre. Existing trees would be retained on the grassed bank on the William Nadin Way frontage and the existing

line of Leylandii trees would be replaced with more native species to continue the tree lined buffer along this road.

The Design Excellence Officer considers that the relationship between the three structures has not been specifically addressed in the Design & Access Statement and that there should be some coherence in style, scale and materials. He considers that in particular the reference to the dentist surgery replicating the health centre further up the road is inappropriate as that would go against the grain of the street. A clearer design vision for the buildings is needed with contemporary architecture that uses glass, timber, render and brick and is designed to sit alongside the retained and new trees. His comments will be drawn to the attention of the applicant by an informative to guide the reserved matters application(s) later.

Impact on residential amenity

The nearest residential use is the three storey Coniston Court building opposite on Darklands Road which provides sheltered apartments for the elderly. The proposed retail building would be 6 m in height of a distance of 20 -22.5m away over a busy road. Active frontages on the retail building would be opposite, however, the impact on the privacy of residents is unlikely to be significant due to the distance, proposed height and land level differences.

The Dentist surgery would be 17.5 m from the nearest detached dwelling on Darklands Road and would be separated by Darklands Road. This is considered to be an acceptable relationship particularly as the existing property has a blank gable adjacent. The proposed DIY building would be 23.5 -25.5 m from the nearest dwelling on Yard Close separated by Darklands Lane. Due to the land level differences and angle of the existing property the proposed building would not have a significant impact on the residential amenity of this property.

These two dwellings to the north west would have an increased level of disturbance than exists at present from the increased use of Darklands Lane to access the development, however, the existing road is adopted and would be improved significantly as a consequence. Noise and light generated by the proposed development can be controlled by condition which would seek to minimise the disturbance to within acceptable limits as recommended by the pollution control section.

Highways and transport issues

There is no objection in terms of highway safety. The Highway Authority however is concerned about the lack of on site car parking particularly as the type of business the proposal seeks to accommodate attracts a higher proportion of car-borne customers than general, smaller retail units. The site is close to the bus station and within walking distance of nearby residential development and it is recommended that permission is dependent upon submission of a Travel Plan the purpose of which it is to identify measures to reduce the number of trips to the development by car. It is also considered that a large provision of car parking would not assist in the site forming part of any linked trip to the town.

In terms of National Cycle Route 63, the solution to widen the footway between the Darklands Road tucan crossing and Darklands Lane to 3m and for shared use of the

Darklands Lane carriageway by cyclists and other vehicles is now shown in the latest amendment.

Trees

It is acknowledged that the majority of existing trees on the site would be removed. However, this is a consequence of widening Darklands Lane to an adopted standard to provide a suitable access for the development together with an improved cycle and pedestrian route that would link to the proposed residential site and the future golf course beyond. The trees to be removed are moderate to poor quality and can be replaced by an extensive landscaping scheme to compliment the development and overall character of the area. This would have likely also been the case when the site was granted permission previously.

Conclusion

Again, this application forms a vital part of the combined package to ensure that a new depot is developed in order that essential services are maintained in the district into the future. There have been no material changes to planning policy since the site was last granted permission other than the changes brought forward in PPS4 which have been analysed in detail above. As such the site is considered to offer a good opportunity for retail development.

Recommendation

GRANT Permission under Regulation 4 subject to the following conditions:

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

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

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

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

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

3. Notwithstanding the originally submitted details, this permission shall relate to the amended plan no. 6649 P010 A received on the 7th March 2011.

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

4. Notwithstanding the Design & Access Statement the details of the appearance of the buildings submitted in accordance with condition 3 shall include a design statement that demonstrates how a coherence in style, scale and materials that addresses the relationship between the new buildings on the site is to be achieved and which establishes Unit B as a landmark building. .

Reason: For the avoidance of doubt the details as originally submitted in the Design & Access Statement being unacceptable.

5. Unless otherwise agreed in writing by the Local Planning Authority no development shall take place, (excluding demolition/site clearance) until space has been provided within the site curtilage for storage of plant and materials, site accommodation, loading/unloading of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority, and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

6. No development shall take place until facilities have been provided in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority to prevent the deposit of extraneous material on the public highway. The approved facilities shall be maintained and utilised throughout the construction period.

Reason: In the interests of highway safety.

7. Unless otherwise agreed in writing by the Local Planning Authority no development shall commence (excluding demolition and site clearance) until the Darklands Lane carriageway, footway and junction onto Darklands Road has been laid out in accordance with drawing no. 6649 P010A, constructed to base level, drained and lit all in accordance with Derbyshire County Council's specification for adoptable highways, and provided with visibility splays extending from a point 2.4 metres from the carriageway edge, measured along the centre line of the access, for a distance of 43 metres in each direction, measured along the nearside carriageway edge.

Reason: In the interests of highway safety.

8. No development shall commence (excluding that referred to in conditions 5, 6 & 7) until the new accesses has been formed to Darklands Lane, laid out and constructed in accordance with the application drawing and provided with 2.4mx33m visibility sightlines, the area forward of which shall be cleared, and maintained in perpetuity clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge. The works shall be carried out under an Agreement under Sections 38/278 of the Highway Act 1980.

Reason: In the interests of highway safety.

9. Pedestrian and vehicular access to properties on Darklands Lane shall be maintained available at all times during the construction of the development hereby permitted.

Reason: To ensure access to properties is not prejudiced by the construction of the development.

10. Prior to the first occupation of the premises, the existing access to Darklands Road shall be permanently closed and the existing vehicle crossover reinstated as footway in a manner to be agreed in writing by the Local Planning Authority in consultation with the County Highway Authority.

Reason: In the interests of highway safety.

11. Prior to the first occupation of the premises hereby permitted the car parking, manoeuvring, loading and unloading space within the site shall be laid out in accordance with the approved plan and maintained throughout the life of the development free of any impediment to its designated use.
Reason: In the interests of highway safety.
12. No gates shall be erected within 15m. of the new highway boundary.
Reason: In the interests of highway safety.
13. The reserved matters application shall be accompanied by plans showing the finished floor levels of the development hereby approved and of the ground levels of the site relative to adjoining land levels. Thereafter, the development shall be constructed in accordance with the agreed levels.
Reason: To protect the amenities of adjoining properties and the locality generally.
14. The site shall accommodate a maximum of two non-food retail units and each unit shall be occupied by a single operator and shall not be subdivided or sub-let.
Reason: To protect the vitality and viability of the town centre.
15. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
Reason: In the interests of flood protecting and pollution control.
16. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

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

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

18. No deliveries shall be taken or despatched from the site outside the hours of 0800 and 1800 Monday to Friday and 0800 and 1300 On Saturday. No deliveries shall take place on Sundays and Bank Holidays.

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

19. Prior to the commencement of any building works on site, the applicant shall submit for written approval by the Local Planning Authority an assessment of noise which specifies the provision to be made for the control of noise emanating from the site. The assessment shall address the impact that the activities inside and outside the proposed units will have, in terms of noise, on nearby residential properties. The development shall be carried out in accordance with the approved assessment and all agreed noise control measures shall be implemented and thereafter retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of the adjoining residential properties.

20. Should the proposed buildings have any fixed plant or equipment then the noise from this (LA_{eq,t}) shall not exceed the background level (LA_{90,t}) as measured at the boundary of the nearest residential properties at any time.

Reason: In the interests of the amenity of the adjoining residential properties.

21. Before development commences details of all external lighting equipment shall be submitted to and approved by the Local Planning Authority. The lighting in the scheme should be erected and directed so as to avoid nuisance to residential accommodations in close proximity. The lighting should be designed to provide a standard maintained illumination (LUX) of between 5 and 20 LUX with the lower level being the preferable one. No other lighting equipment may then be used within the development other than approved by the Local Planning Authority.

Reason: In the interests of the amenity of the adjoining residential properties.

22. Site clearance operations involving the clearance of vegetation and demolition of buildings on site shall not be undertaken during the months of March to August inclusive, except as approved by the Local Planning Authority.

Reason: To ensure that breeding birds are not affected by the development.

23. Any works located close to the William Nadin Way road embankment shall be carried out in accordance with the Method Statement provided in paragraph 5.4 of the reptile report that accompanied the planning application.

Reason: In the interests of minimising impact on protected species.

24. Prior to the occupation of the first unit bat roosting features detailed in paragraph 4.11 of the Bat Assessment Report submitted with this application are made available for use by bats.

Reason: In the interest of beneficial biodiversity features in accordance with PPG9.

25. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of measures for the protection of the Norway Maple and other trees to be retained on the site during the course of development. The trees shall be protected by the agreed measures during the course of construction.

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

26. 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.

27. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the Norway Maple and other existing trees to be retained shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

28. Any Reserved Matters application shall be accompanied by a Travel Plan.

Reason: In the interests sustainability by reducing use of private cars.

29. No development shall commence until the site investigation works outlined in the Coal Mining Risk Assessment have been undertaken and any subsequent remedial works to treat areas of shallow mine workings implemented.

Reason: To ensure the safety and stability of the development.

Informatives:

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

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

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

Pursuant to Sections 149 & 151 of the 1980 Highways Act the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited onto the public highway. Should such deposits occur it is the applicant's responsibility to ensure that steps are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

The works to be undertaken on Darklands Lane and Darklands Road will require the developer to enter into an Agreement under Highways Act 1980 Section 278. The developer is advised to allow a minimum of 12 weeks in any programme of works to allow completion of the Agreement. No works may be commenced within the highway in advance of the Agreement being entered into. Advice regarding technical, legal and administrative and financial processes involved in Section 278 Agreements may be obtained from the Strategic Director of Environmental Services at County Hall, Matlock (tel 01629 580000).

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

Natural England advise that if breeding birds are discovered during work on the development, the relevant work should be halted immediately and Natural England or your ecological consultant should be notified and further advice sought. Failure to comply with this may result in prosecution and anyone found guilty of an offence is liable to a fine of up to 5,000 or to imprisonment for a term not exceeding six months or both.

The Environment Agency should be consulted on advice on treatment and disposal of Japanese Knotweed which it is illegal to introduce to or spread on a site.

Natural England would wish to work closely with you regarding the mitigation/enhancement measures to minimise the disturbance to protected species.

In regard to submission of the detailed design of the appearance of the structures referred to in condition 4 you are advised that the following considerations should be taken into account:

- * A clear vision is needed as the 'gateway' status of the site demands a high quality design.
- * The relationship between the three new structures should provide some cohesion in style, scale and materials. It is not considered appropriate for the dentist's surgery to

replicate the health centre up the road as this building goes against the grain of the street (this being 2 storey 1930s semi's that enclose the street and have a continuing facade.)

* Use should be made of contemporary architecture that uses glass, timber, render and brick and that is designed to sit alongside the retained and new trees and other landscaping. This landscaping should become a feature of the site itself in some instances e.g. the architecture of the dentist's surgery should provide a setting for the retained tree and relate strongly to it.

* The potential for Unit B to make an architectural statement and exciting skyline should be maximised.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures should 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 dished channel or gulley 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 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 landowner.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least three months prior notification shall be given to the Environmental Services Department at County Hall, Matlock (tel 01629 538595) before any works commence on the vehicle access within highway limits.

Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new widened section of road should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Department of Environmental Services at County Hall, Matlock (tel 01629 580000). The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 38 Agreement.

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

The application site is affected by a Public Right of Way (footpath number 46 on the Derbyshire Definitive Map) The grant of planning permission does not entitle developers to obstruct public rights of way which must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Advice regarding the temporary (or permanent) diversion of such routes may be obtained from the Strategic Director of Environmental Services at County Hall, Matlock (tel 01629 580000 and ask for Public Rights of Way section).

Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway, at least 6 weeks prior notification should be given to the Department of Environmental Services at County Hall, Matlock (tel 01629 580000 and ask for the New Road and Streetworks Section). Where development has been approved subject to the preparation and implementation of a Travel Plan, the applicant is obliged to submit the appropriate documentation to the Local Planning Authority. Advice regarding the content of Travel Plans may be obtained from the Director of Environmental Services at County Hall, Matlock. (tel 01629 580000 and ask for the Transportation Section)

Reason for decision and conditions

Item 1.5

Reg. No. 9/2010/1091/MAO

Applicant:
Atkins Family Trust
C/O Agent

Agent:
Mr John Wren
JMW Planning Ltd
Tournament Way
Ashby de la Zouch

Proposal: **APPLICATION FOR A NEW PLANNING PERMISSION TO REPLACE AN EXTANT OUTLINE PLANNING PERMISSION 9/2005/0991 IN ORDER TO EXTEND THE TIME LIMIT FOR SUBMISSION OF RESERVED MATTERS FOR 200 BEDROOM HOTEL WITH RESTAURANT AND ASSOCIATED PARKING ON LAND SOUTH OF DOLES LANE FINDERN DERBY**

Ward: **ETWALL**

Valid Date: **26/11/2010**

Reason for committee determination

This is a major application and more than two objections have been received.

Site Description

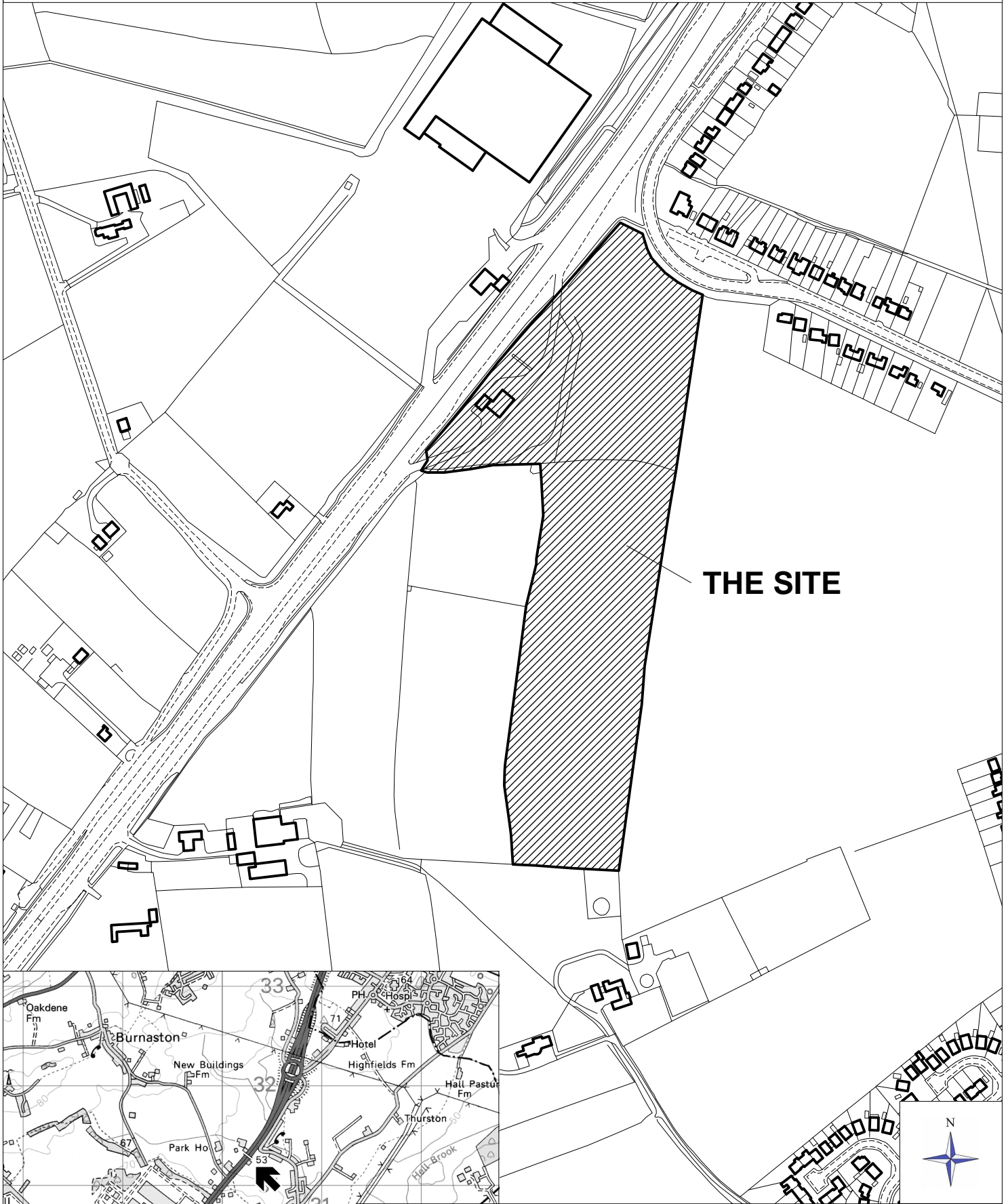
The site comprises the filling station off the southbound carriageway of the A38 and the fields to the rear and south of the filling station. There are hedges to most boundaries but the boundary to Doles lane/Burton Road comprises a fence. Doles lane/Burton Road is at a higher level than the application site. The field to the south of the site rises towards the Mill and Mill Farm. The majority of the site is affected by an area County Council Tree Preservation Order No. 70 which affects the former petrol station site and the land to the south.

Proposal

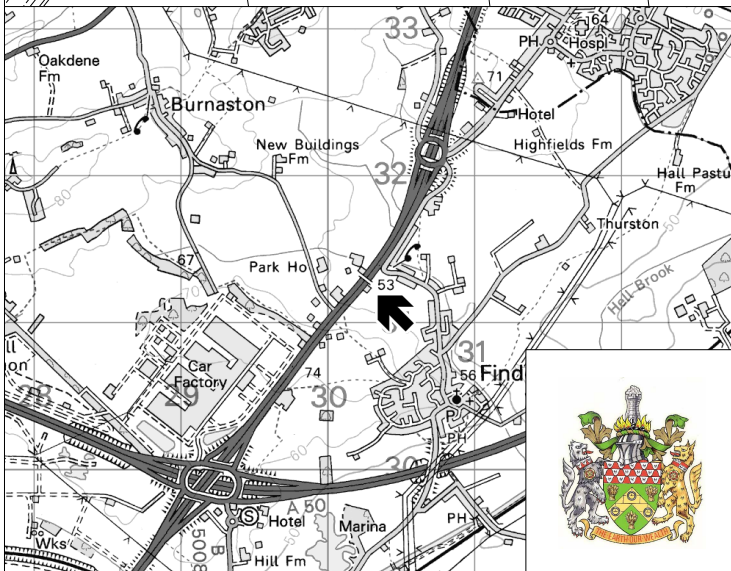
The application seeks to replace an existing outline permission (all matters reserved except for access) reference 9/2005/0991 in order to extend the time limit for the submission of reserved matters. The current approval expires in April 2011.

The proposal is for a 200-bed motel. An indicative plan accompanying the application shows two arms of three storeys buildings with a central access point. Final details would be the subject of a reserved matters application. The submitted indicative layout

9/2010/1091 - Land to South of Doles Lane, Findern, Derby DE65 6BE



THE SITE



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South Derbyshire District Council. LA 100019461. 2010

shows parking provision to be on the site of the former petrol filling station with additional parking between the building and Doles Lane. A balancing lake is also indicated between this car parking area and Doles Lane, the final details of which would be the subject of a reserved matters application.

The original access to the site from the A38 was amended under the 2005 application due to an objection from the Highways Agency resulting from changes in highway standards requirements. Under the approved amended scheme access to the site would be from Doles Lane/Burton Road the design of which would comprise a continuation of Burton Road into the application site, the formation of a roundabout and a link back into Doles Lane. This element of the proposal would involve the loss of trees on the Burton Road frontage. In response to this alteration to the access from the A38 to Doles Lane/Burton Road, the applicant's proposed a 2m high noise attenuation fence between the A38 and the houses on Burton Road. The applicants entered into a Unilateral Undertaking with an obligation to pay the sum of £128,000 towards the provision of a 2m high noise attenuation fence for a distance of not more than 320 metres. A supplemental deed has been submitted with the current application to maintain this obligation.

Applicants' supporting information

A supporting statement has been submitted with the application and includes the following details:

- Although the necessary work (*to meet the requirements of the conditions of 9/2005/0991*) has been progressed by a prospective purchaser of the site there is no certainty that all the details could be submitted by April 2011 or that the economic climate then would be conducive to ensuring that the prospective developer finally commits to the site.
- A deed of variation to include the Unilateral 106 obligation for a noise attenuation fence as part of this application has been submitted.
- The Council were supportive of the 9/2005/0991 application and there has been no change in policy since that time. Nor have there been any significant changes in any material considerations relating to this proposal which would suggest that it would be appropriate for the District Council not to grant this application.
- The site is well related to the area of Findern being close to existing houses but not so close as to adversely impact on residential amenity.
- The Flood Risk Assessment of March 2006 confirmed that the site was not at risk of flooding and was within Flood Zone 1 since which time there has been no fundamental change in national planning guidance.
- The conditions that the development has to meet were required by the District Council to protect local residents and the local environment amongst other things. These details take time to prepare and it is in everyone's interests that the District Council now allows sufficient time for that to happen.

Planning History

Permission for a 200-bed hotel was first granted in 1980, subsequently there have been several renewals of that permission the last of which was submitted in 2005 and

subsequently approved in April 2008 with the period for the submission of reserved matters expiring in April 2011.

Responses to Consultations

The Highway Authority has no objections subject to the inclusion of conditions as in the previous permission.

Severn Trent Water has no objection subject to conditions for the disposal of foul and surface water.

The Environment Agency has no objection.

The Council's Drainage Officer has no objection.

The Highways Agency has no objection subject to there being no access from the A38 as previously approved.

The Environmental Protection Manager has noted that part of the site is a former fuel station and that a standard condition requiring the submission of a desktop study is necessary.

The County Tree Officer has advised that there are very few mature trees on the site of any merit but there are some semi-mature specimens that if possible should be retained. A tree survey should be carried out identifying all trees to be retained/lost with measures for safeguarding the trees to be retained.

Responses to Publicity

Three letters of objection have been received raising the following concerns:

- a) After 30 years of deliberating on this site it is time to finally close the issue once and for all.
- b) The increase in traffic through the village would be detrimental to the residents of Findern and the hotel would be better sited in a less rural area.
- c) The size of the building seems to have grown over the last twenty years from a modest Motel to a 200 bed Hotel with 450 parking spaces and all the ramifications that a complex of that size incurs.
- d) There is already a motel complex at Willington, Littleover Lodge and Mickleover Court.
- e) Something smaller scale would be more appropriate.
- f) Conditions should be rigorously adhered to particularly with regard to existing TPOs and the screening of the site with mature native trees.
- g) There should be no pedestrian access to the site from Doles Lane/Burton Road which would lead to cars being parked on this corner.
- g) The ground is very wet and if covered in tarmac and buildings there is a real risk of flooding in the area from Doles Brook.
- h) When the sewer is full of floodwater drains regularly block up due to lack of fall to the sewer in this area.

Development Plan Policies

The relevant policies are:

EMRP: Policy 1 & 42

Local Plan: Environment Policy 1; Recreation and Tourism Policy 1; Transport Policy 6

National Guidance

PPS4 & PPS7

Planning Considerations

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

- The principle of development
- Access considerations
- Land drainage issues
- Loss of trees
- The offer of Noise attenuation fencing

Planning Assessment

The Principle of development

The principle of a 200-bed hotel development has previously been established through the previous grant of outline planning permissions on the site over the past 20 years. In considering applications to allow for the extension of time of a permission the government guidance advises that the main focus of determination should be on as to whether there have been any significant changes in development plan policies or other material considerations since the original or most recent grant of permission. The guidance advises local planning authorities to take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly.

Since the previous grant of permission in April 2008 PPS4 'Planning for Sustainable Economic Growth has been introduced. Policy EC7.1 advises that proposals for sustainable rural tourism and leisure developments that benefit rural businesses, communities and visitors and which utilise and enrich, rather than harm, the character of the countryside should be supported. Facilities requiring new buildings should be provided close to existing service centres or villages. The provision of roadside hotels is encouraged in the Government advice in the Good Practice guide that replaced PPG 21 on Tourism with the aim that the development should be sustainable as possible. Edge of town centre locations, for example on a ring road or on a major route out of the town centre, will usually be the most appropriate locations if a town centre location is not suitable, available or viable. The proposal should fit well with its surroundings, having regard to its siting, scale, design, materials and landscaping.

The Development Plan policies came before the publication of that advice and place reliance on the highway safety and amenity considerations for residents in the vicinity of the proposed site as well as impact on the countryside. These issues are considered below.

The application site comprises of a former petrol station located adjacent to a national trunk road and on the edge of Findern village and in close proximity to Derby City. Details of siting, scale, design, materials and landscaping design would be considered under reserved matters. A hotel has been proposed on this land over many years and has not been implemented. This application was submitted prior to the expiry of the previous permission. The principle of the development has therefore been accepted in the past and it is for the Local Planning Authority to be satisfied that the planning policy circumstances have changed significantly if it wishes to refuse planning permission. Given the policy position remains substantially unchanged it would be inappropriate to refuse the application on policy grounds.

Access Considerations

Access to the site would be from Doles Lane/Burton Road. There would be no vehicular access from the A38. Both the Highways Agency and the County Highway Authority have no objection subject to conditions as on the current outline permission.

Drainage Issues

The Flood Risk Assessment submitted with the previous application is considered to remain relevant. Whilst PPS25 has come into effect since the grant of previous permission both the Environment Agency and the Council's Drainage Officer consider that there would be no adverse impact in terms of flood risk or drainage issues and therefore neither have an objection.

Loss of Trees

The development would result in trees and hedge plants being lost to form the access and develop the site. An area County TPO NO. 70 covers part of the filling station site although on the advice of the County Tree Officer none of the trees in this part of the site have any great amenity value. A tree survey would be required by condition as part of the submission of reserved matters and a new order could be considered once the landscaping scheme is implemented which could then safeguard the remaining specimens.

Noise Attenuation Fence

Under the previous application the applicants offered to enter into a Unilateral Undertaking to provide a financial contribution of a maximum of £128,000 towards the provision of a 2m high noise attenuation fence for a distance of 320m along Burton Road. A draft supplemental deed has been submitted which would retain that obligation. The funds would be provided and it would be for the highway authority(s) to implement the scheme. However, both opine that the fence would have to be erected on highway land and at the time of writing the County Council has questioned the maintenance responsibility it might be left with and as such would resist its erection. Further investigation of this would therefore be required.

Conclusion

There have been no significant changes in development plan policies or other material consideration since the most recent grant of permission. The proposal remains in

accordance with policy requirements including those introduced by PPS4 and PPS25 and the site circumstances remain unaltered since the previous grant of approval.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

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

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

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

3. The landscaping details required by Condition 2 above shall include a Tree Survey of the site identifying all trees to be retained/lost with measures for safeguarding the trees to be retained.

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

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

Reason: To preserve amenity and prevent danger to road users.

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

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

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

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

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

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

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

7. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details that have been agreed before the development is first brought into use. The scheme shall utilise sustainable drainage principles and shall not result in an increase in the rate and/or volumes of surface water discharge to the local land drainage system. The details submitted for surface water disposal shall indicate the locations of all pipework and balancing ponds together with calculations to justify the submitted scheme.

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

8. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstanding shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

9. 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.

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

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

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

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

12. The details required pursuant to condition 2 shall include areas for the parking, manoeuvring and loading of all vehicles likely to visit the site at any one time and those spaces shall be hard surfaced and marked out prior to the first use of the development and thereafter retained for that purpose.

Reason: In the interests of highway safety.

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

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

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

Reason: In the interests of highway safety.

15. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

16. Before development is commenced details of a scheme to permanently close the existing direct vehicle access/egress from the site onto/off the A38 (T) shall be submitted to and approved in writing by the Local Planning Authority in

consultation with the Highways Agency. The submitted scheme shall include details of a barrier to be erected along the trunk road frontage to the site. The approved details for the permanent closure of the access/egress shall be implemented prior to the first occupation of the hotel hereby permitted and shall thereafter be maintained in place.

Reason: To ensure that the A38 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption on the trunk road from traffic entering or emerging from the application site and in the interests of highway safety.

17. Before development is commenced space shall be provided within the site curtilage for site accommodation, storage of plant and materials, lorry loading/unloading parking and manoeuvring, employee and visitor car parking and manoeuvring in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be maintained in place throughout the construction period.

Reason: In the interests of highway safety and to ensure that all construction vehicles and materials are stored clear of the public highway.

18. The development shall not be brought into use until the access roundabout and associated highway works have been implemented generally as shown on Drawing No CS-014708/H/SK08 PO1 in accordance with detailed designs first approved by the Local Planning Authority in consultation with the Highway Authority.

Reason: In the interests of highway safety.

19. The development shall not be taken into use until the treatment to the redundant section of the Doles Lane Carriageway to the intervening verge between the existing and proposed carriageway and to the section of footpath linking Doles Lane with the A38 Trunk Road has been implemented in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: In order to ensure that the land between the new and existing highway is treated in the interests of the amenity of the area.

20. Building development shall be limited to the areas shown on the attached plan no 9/2001/0889A and such development shall be limited to that described on this decision notice.

Reason: In the interests of protecting the rural character of the area.

Development of the land outside the hatched area would have an adverse impact on the open character of the countryside and be detrimental to the rural character of the area.

Informatives:

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

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

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

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

Condition 15 is imposed at the direction of the Highways Agency.

Pursuant to Section 278 of the Highways Act 1980 no works may commence within the limits of the public highway without an Agreement of the foregoing Act being entered into with the County Council. Also pursuant to Sections 149 and 151 of the Act the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur it is the developer's responsibility to ensure that action is taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

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

Item 1.6

Reg. No. 9/2011/0005/FH

Applicant:

Mr Peter Green
26 Brook Road
Thulston
Derby

Agent:

Mr Fred Davidson
Fred Davidson Design
10 Lower Maples
Heanor
Shipley

Proposal: **Amended scheme of previously approved application
9/2009/0572 for the erection of extensions and
alterations at 26 Brook Road Thulston Derby**

Ward: **ASTON**

Valid Date: **05/01/2011**

Reason for Committee Determination

Councillor Mrs Coyle (ward member) has requested that the Planning Committee determine this application as local concern has been expressed about a particular issue.

Site Description

The property is a detached two-storey dwelling located at the northeastern corner of Brook Road. It has previously been extended (see planning history below). The plot affords both front and rear garden space; a detached brick built garage and a level of hard surfacing used for car parking. The site and surrounding land is flat.

Proposal

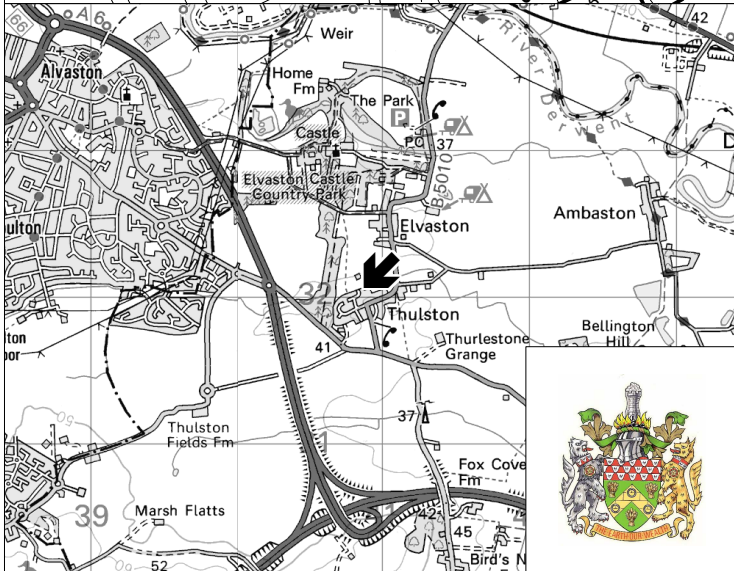
The proposal is in three parts: a two-storey extension to the side, a first floor extension to the rear and a single storey extension to the front.

Applicants supporting information

None.

Planning History

9/497/01010F – two-storey extension to the front of the property.



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There is also an extant permission here (9/2009/0572) for a single storey garage to side and first floor extension to rear. This application is seen as a replacement for that scheme.

Responses to Consultations

Objections have been received from Elvaston Parish Council and two neighbouring households. These objections are summarised as follows:

- a. Concern over proximity of build to No.24 making 'general property maintenance' difficult;
- b. the proposal makes the house look semi detached when it is in fact detached; the extension would have a detrimental effect on the appearance of the area; proposal causes a terracing effect;
- c. overbearance to bedroom window; loss of light to conservatory; concern over noise and risk of fire spread again due to proximity of build;
- d. loss of privacy;
- e. property value loss; applicant should be responsible for any damage caused to the adjacent property for a period of 25 years; lack of consideration towards residents.

Development Plan Policies

Local Plan Housing Policy13; Local Plan Green Belt Policy 3; Supplementary Planning Guidance (SPG): Extending Your Home.

Planning Considerations

The main issues central to determination of this application are:

- Design/Impact on the streetscene
- Residential amenity

Planning Assessment

Design/Impact on the streetscene

The property is a detached dwelling situated in a wholly residential cul-de-sac. Built in the mid 70's it has a modern but simple appearance.

SPG states that extensions should look like a smaller part of the main dwelling. The extensions as proposed achieve this by being narrower and/or shorter than the existing. By setting the ground floor and first floor elements back from the established building line, the proposal further attempts to lessen its visual impact and as such appears wholly subordinate.

The SPG also states that in cases where houses are set at regular intervals, care should be taken when extending to the side, to avoid a terracing effect although this can be relaxed for more modern estates where all houses are not the same. In this case, immediate properties are similar in design and set out at regular intervals. The wider cul-de-sac though is a mix of modern house types and styles and all houses are not the same. Semi-detached dwellings (properties which you have to pass to access No24) do exist in the streetscene and are interspersed with detached dwellings without undue detriment. It is considered therefore that a 'terracing' argument is not sustainable.

Residential Amenity

Housing Policy 13 permits extensions that are not detrimental to the amenities of immediate properties.

By virtue that no neighbour primary windows are overlooked or overbared upon and light levels are not unduly affected, the proposal is seen to be acceptable in that regard. The 45 degree lines in respect of overbearance is not contravened. Light levels to the conservatory and first floor bedroom window at No24 will not be adversely reduced given its orientation. The first floor doors/juliet balcony are assessed as having no worse an impact than a large window. As primary windows already exist to the rear at first floor this new window is seen not to make any material difference.

Concerns raised in regards the proximity of the build and the physical works of such can and should be managed through the Party Walls Etc. Act 1996. Building Regulations approval would also provide a control with regards appropriate noise and fire protection.

Conclusion

The proposal is considered to be in keeping with the general mix of house types found in the locality and settlement generally. Although the side extension proposed would be in close proximity to its neighbour, attempts to limit its impact have been made and overall it would appear subordinate. Considered against the SPG, there is no case for overbearance or loss of privacy, and basic amenity levels are not unduly affected.

Recommendation

GRANT permission subject to the following conditions:

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

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

2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.

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

Informatives:

In the event that the flood mitigation measures submitted as part of the application are insufficient and floor levels are increased it is likely that a further planning permission would be required.

Item 1.7

Reg. No. 9/2011/0042/TC

Applicant:

Mr Mark Walster
SDDC
Civic Offices
Civic Way
Swadlincote

Agent:

Mr Rob Brooksby
South Derbyshire District Council
The Depot
Darklands Road
Swadlincote

Proposal: **RAISE CROWN OF THREE SILVER BIRCH TREES
ADJACENT TO MAIN STREET AT PEAR TREE COURT
PORTLAND STREET ETWALL DERBY**

Ward: **ETWALL**

Valid Date: **21/01/2011**

Reason for committee determination

The Council is the applicant.

Site Description

The site is adjacent to the Old Peoples' home at Pear Tree Court and the trees lie just within the boundary of the Etwall Conservation Area. The site sits above the level of High Street/Hilton Road and there is a seat beneath the trees.

Proposal

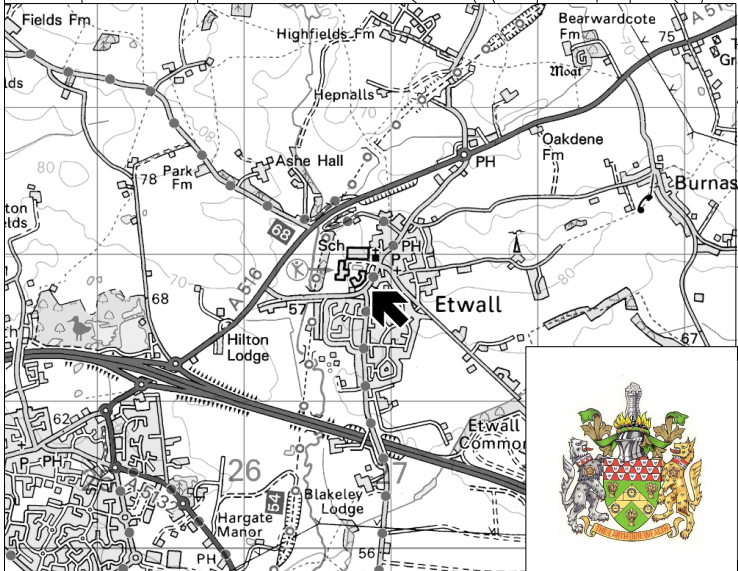
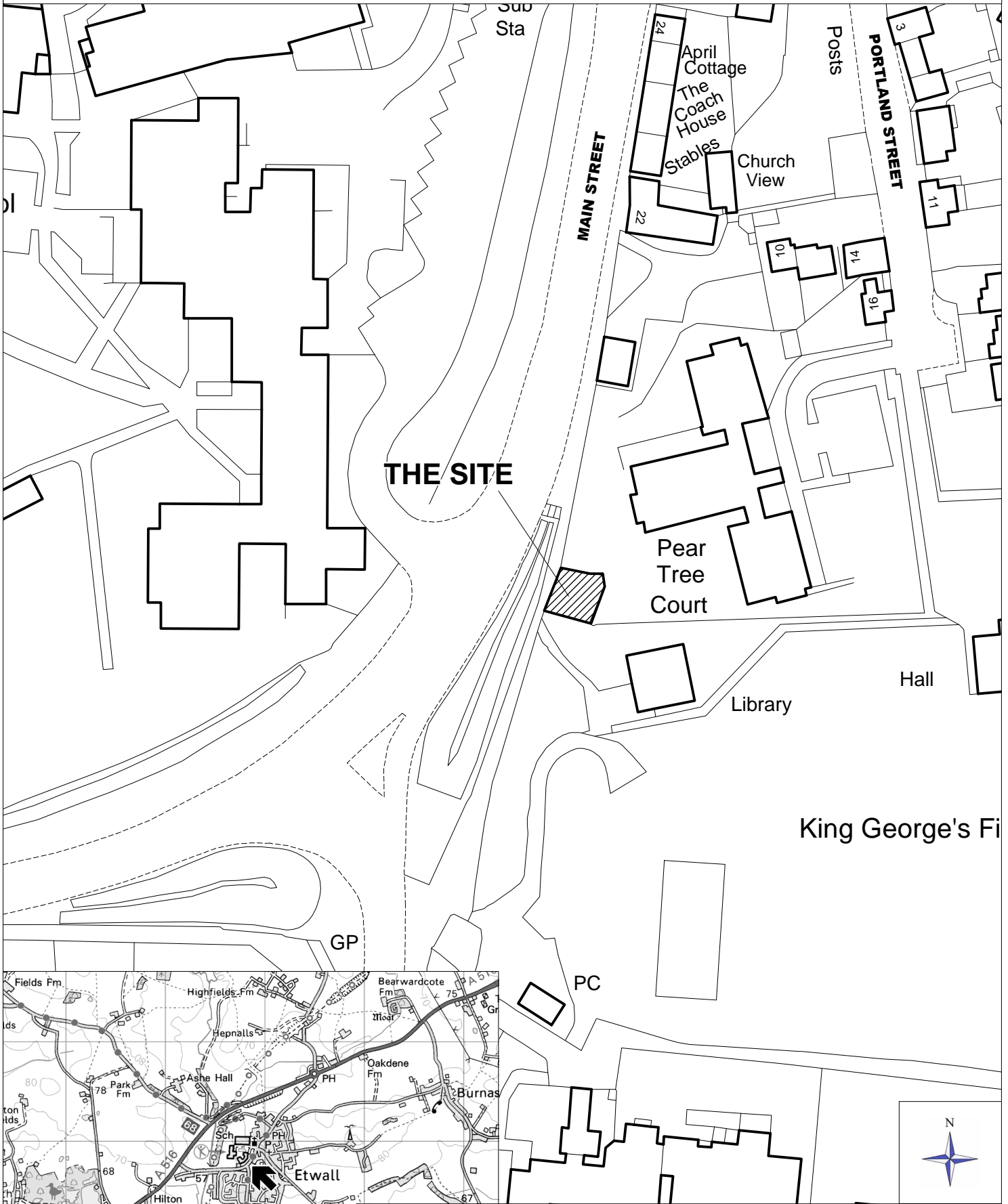
The proposal has been amended since submission to propose crown raising that involves the removal of the lower branches of the trees to a height of 3.0m. The original proposal was to 'top' or crown reduce the trees by up to 30%.

Responses to Consultations

Etwall Parish Council has no objection.

The Councils' tree consultant advised that the crown raising is acceptable but the 30% reduction is not as it will harm the long-term health of the trees. Given the limited works now proposed, the trees may continue to contribute to the character and appearance of this edge of the Conservation Area. The trees would continue to enjoy the protection afforded to trees in the Conservation Area.

9/2011/0042 - Pear Tree Court, Portland Street, Etwall DE65 6JE



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Responses to Publicity

None.

Development Plan Policies

The relevant policies are:
Local Plan: Environment Policy 12

Planning Considerations

The main issue central to the determination of this application is the impact the proposed works to the trees would have on the character and appearance of the Etwall Conservation Area.

Planning Assessment

The applicant has followed the advice of the Council's tree specialist and the works now proposed are considered acceptable. (If further works to the trees were needed at some point in the future then a new application would be required. Impact on the character and appearance of the Conservation Area would be reassessed at that point in time and consideration if appropriate given to the need for a TPO.)

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

Recommendation

Advise that the Local Planning Authority has no objection to the works subject to the following conditions:

1. Notwithstanding the details submitted this permission shall relate to the scheme as amended by your e-mail dated 2 March 2011 that amends the application to limit the proposed works to the crown raising of the lower branches of the tree to 3.0 metres only.

Reason: For the avoidance of doubt.

2. At least one week prior written notice of the date of the commencement of the works hereby granted consent shall be given to the Local Planning Authority.

Reason: So as to enable a Planning Officer to be present on site in order to agree the extent of works before they are commenced, in the interest of the health and safety of the trees, and to ensure that the appearance of the tree and the character of the area is not unduly harmed.

Item **1.8**

Reg. No. **9/2011/0059/NO**

Applicant:

Mr R. M. Hosking
Highfields Happy Hens
The Paddocks,
Highfields Farm,
Heage Lane,
Etwall

Agent:

Mr R. M. Hosking
Highfields Happy Hens
The Paddocks,
Highfields Farm,
Heage Lane,
Etwall

Proposal: **The erection of 50 VK wind turbine at The Paddocks
Highfields Farm Heage Lane Etwall Derby**

Ward: **Etwall**

Valid Date: **27/01/2011**

Reason for committee determination

Councillor Lemmon has requested that the application be brought to Committee as issues of local concern have been raised.

Site Description

The site occupies part of a field that also houses one of the chicken sheds on the farm. It is set at a relative highpoint in the field that is enclosed by hedges. To the west, on the access drive to the farm, is a public footpath that runs in a westerly direction.

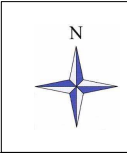
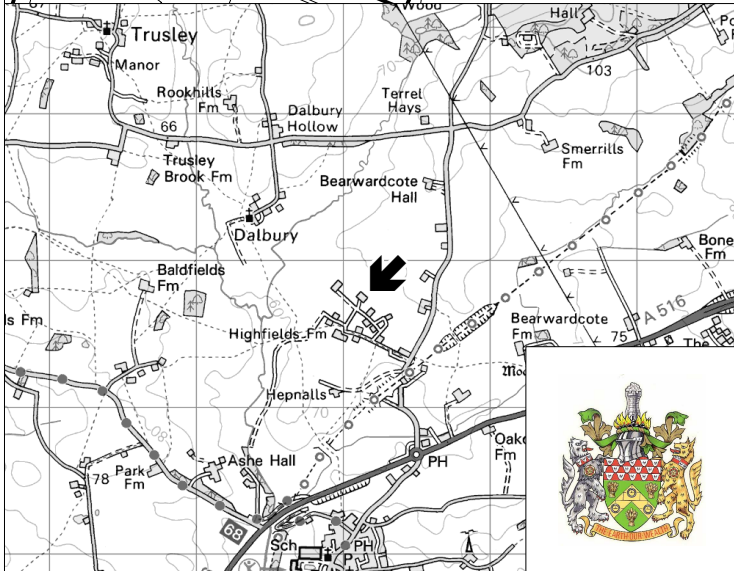
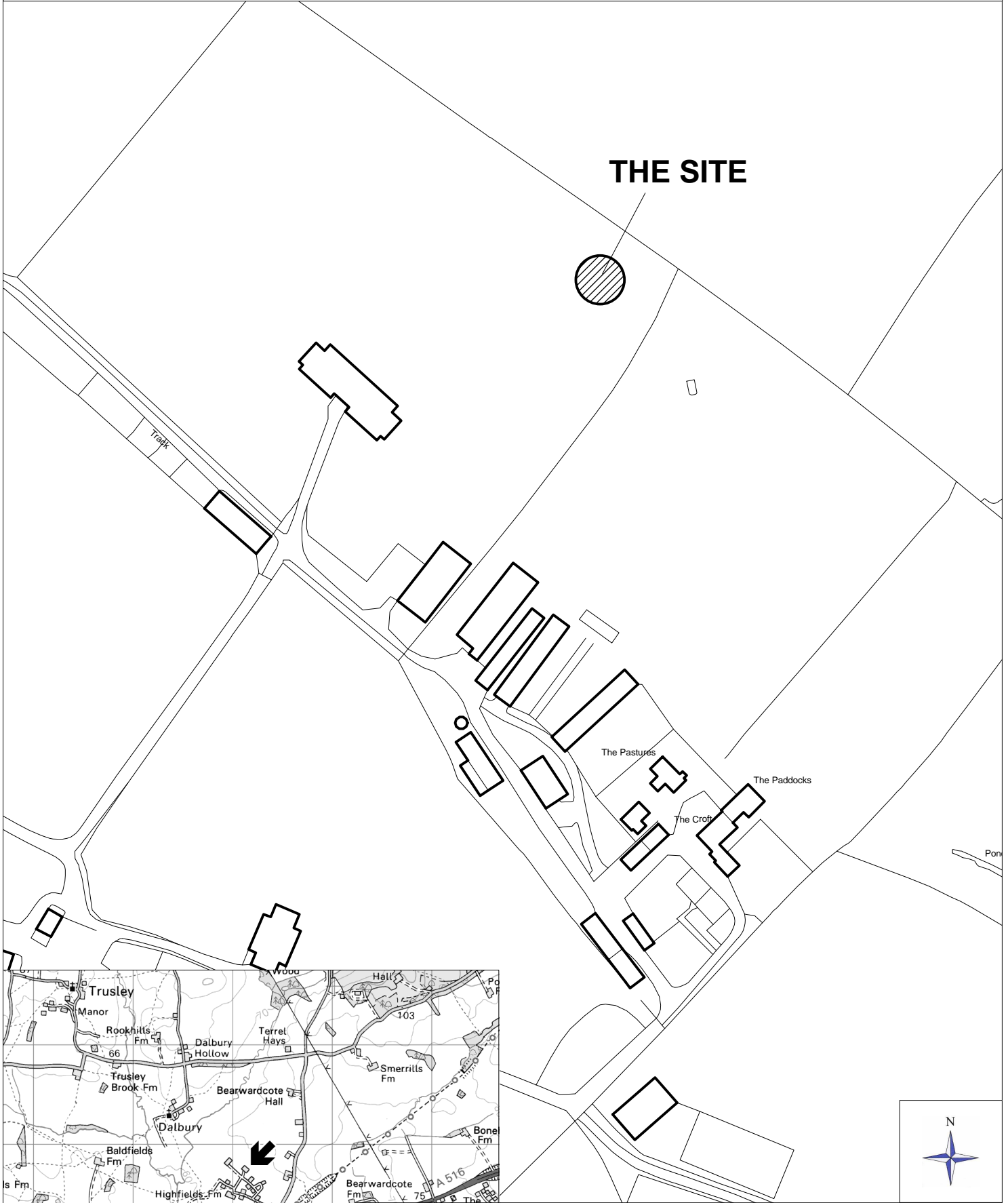
Proposal

The proposed mast would be some 24.6m (80.7ft) to the hub and when a blade is in the upright position the overall height would be 34.2m (112.2ft). The radius of the blades is 9.6m (31.5ft).

Applicants' supporting information

The applicants view the proposal not only as a means of meeting the power needs of the chicken sheds and farm but also as a green teaching aid for both their own students and when school parties visit the site.

The applicants assert that the mast and turbine have evolved over time and that noise is not an issue, as even in very windy conditions the equipment would not drown a person's conversation. Information on the noise generated by this type of turbine has been presented for consideration.



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Prior to submitting the application, the applicant contacted his nearest neighbours; one responded in a letter stating that they wished the project well and had no objection. The applicant reports that the other neighbour informed him that the proposal was a good idea.

The Derby Aero club has also been consulted by the applicant and a letter from the club supplied by the applicant, states that the club would have no objection to the proposal if the hub height for the turbine was 34.2m.

Planning History

The mast occupies part of the farmland at Highfields Farm that is a mixed farm with an emphasis on egg production but also holds livestock. It is also an education centre for children and young people who have behaviour problems or special education needs.

Responses to Consultations

Etwall Parish Council objects to the development as a blot on the pleasant rural landscape of the area.

The Environmental Protection Manager and East Midlands Airport have no objection.

Responses to Publicity

An objector makes reference to concerns about noise and a loss in value to the property stating that their dwelling is very close to the site.

Development Plan Policies

EMRP: Policies 1, 3, 12 & 40
Saved Local Plan: Environment Policy 1.

National Guidance

PPS 22 - Paragraphs 1, 18, 20, 22, 25. Sections 5 & 8 of the Companion Guide to PPS 22.

Planning Considerations

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

- The Development Plan and Government advice.
- The impact of the proposal on the character and appearance of the countryside.

Planning Assessment

The policy documents in terms of the Regional Plan and Government advice is directed more towards the provision of wind farms rather than individual turbines. The Regional Plan Policy 40 acknowledges that individual turbines can play a role in electricity generation. The Government advice suggests a condition requiring the removal of such structures should they no longer be required for electricity generation.

The noise issue is one that is addressed in the advice, but there is no objection from the Environmental Protection Manager about the proposal and the information accompanying the application suggests that at distances beyond 100m the turbine should not cause noise issues, the nearest dwelling is on Heage Lane albeit the old Highfields Farm house is closer. The operators of the old farm premises have raised no objection. However as with anything to do with noise, perception can be enhanced when an object can be seen and is thought to be noisy.

This mast will be visible from a wide area, as the site occupies a relatively high location in the landscape. The existing farm complex is visible from Etwall Village, the mast may also be visible from Dalbury village but its impact is difficult to assess as Dalbury lies within a hollow in the landscape. There would also be views across the fields from the north in the vicinity of the Radbourne junction at the top of Heage Lane. The mast would be visible from houses in the vicinity of Bearwardcote House and the farm houses to the south of that house on Heage Lane. Appropriate site notices have been placed along Heage Lane. The site has been assessed also from the cottages at the bottom of the farm access and they will not be adversely affected visually by the proposal. The site would be visible from the public footpath that runs through the farm complex.

However, where these views are available are some considerable distance from the application site and the turbine would appear as a slender structure on a hilltop. This is not considered a prominent unwarranted intrusion into the countryside and the proposal is generally in accord with the latest Government advice and the policies in the East Midlands Regional Plan in respect of renewable energy that makes provision for such a small-scale facility.

A study, commissioned by this Council and others in the Derby HMA, has identified South Derbyshire as a location where wind power could play a role in power generation given the average wind speeds available and the relatively sporadic nature of the settlements in the District. The study does acknowledge that landscape impacts have not formed part of its conclusions about the suitability of South Derbyshire to accommodate wind turbines.

Overall it is considered that the erection of a wind turbine in this relatively remote location would not harm the rural character of the area and there is sufficient evidence to suggest that the occupiers of the nearest houses should not be adversely affected by noise from the operation of the turbine. A condition is recommended requiring the removal of the turbine and its supporting structure should no longer be used for electricity generation.

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. Within 3 months of the cessation of the use of the turbine and its supporting infrastructure for the purpose of generating electricity as hereby permitted all such equipment and structures shall be dismantled and the site restored to its current use as pasture/grazing associated with Highfields Farm.

Reason: To restore the land in the interests of the rural character of the area should the turbine and supporting structures no longer be required for the purposes of power generation.

Item 2.1

Reg. No. 9/2011/0146/FO

Applicant:

Mr & Mrs Wrathall
159 ASHBY ROAD
BOUNDARY
SWADLINCOTE

Agent:

Peter Diffey & Associates Ltd
Cotesbach Villa
54 Woods Lane
Stapenhill

Proposal: **OUTLINE APPLICATION (ALL MATTERS RESERVED EXCEPT FOR ACCESS AND LAYOUT) FOR THE ERECTION OF TWO DWELLINGS AND NEW VEHICULAR ACCESS AT LAND ADJACENT TO 159 ASHBY ROAD BOUNDARY SWADLINCOTE**

Ward: Hartshorne/Ticknall

Valid Date: 25/02/2011

Reason for committee determination

The application is brought to Committee at the request of Councillor Murray (ward member) as the Committee should debate the issues in this case which are very finely balanced.

Site Description

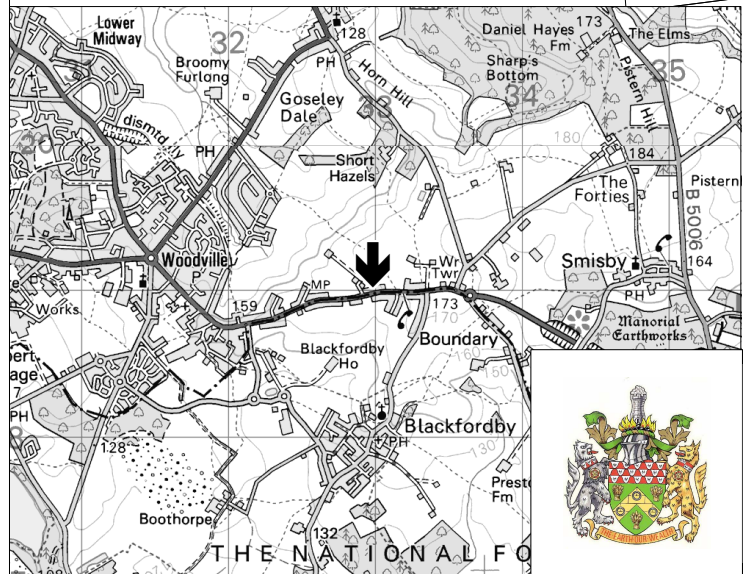
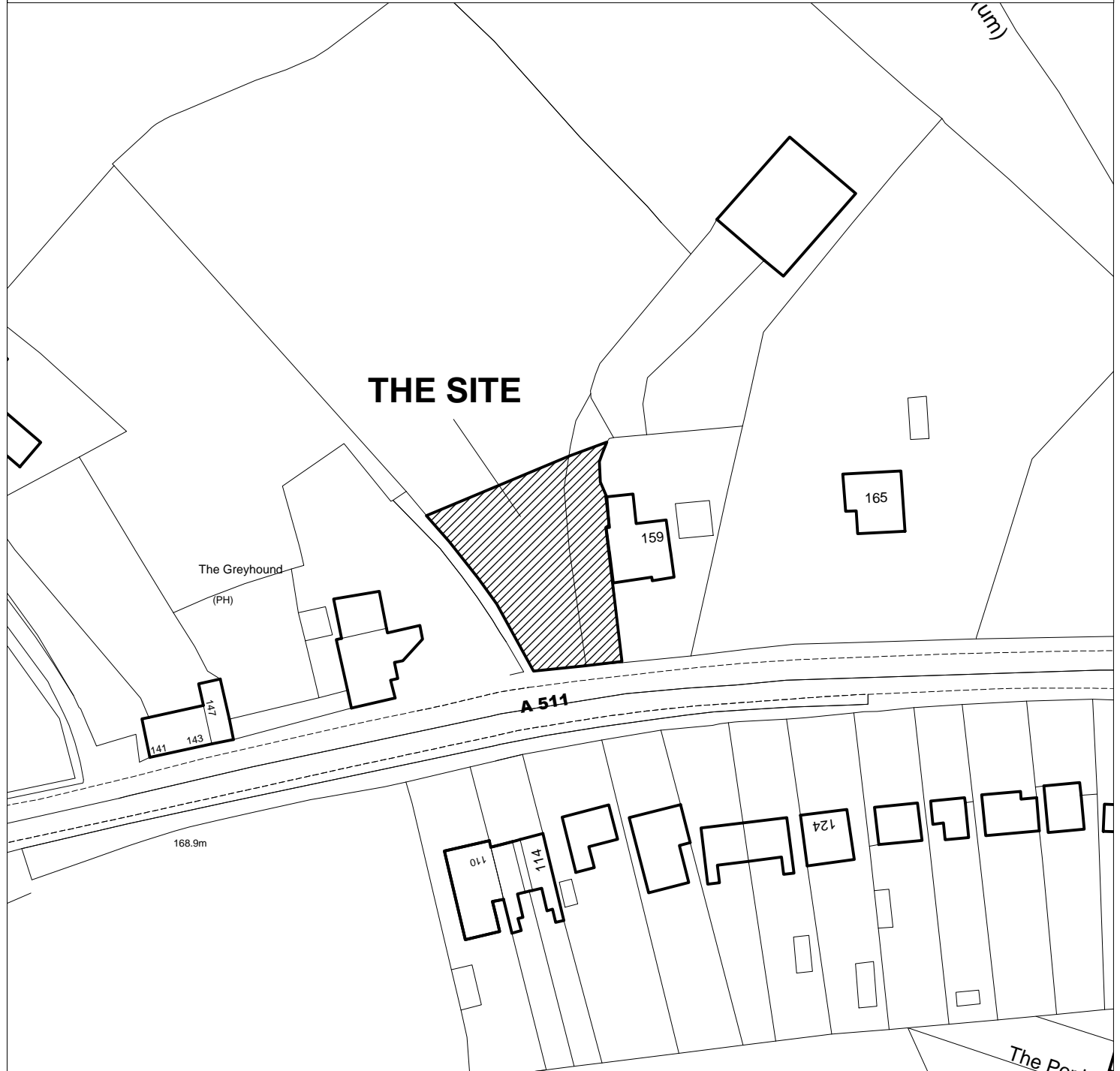
The application site is situated outside of the built-up area of Woodville in a semi-rural location and consists of an area of land within the curtilage of 159 Ashby Road, a detached dwelling. The property is one of two detached dwellings set within large plots which together with the Greyhound public house and terrace of three properties situated to the west form a dispersed development to the north of Ashby Road with open countryside beyond. To the south of Ashby Road is a long ribbon of development within North West Leicestershire.

The site is enclosed on three sides by a boundary hedge. Immediately to the rear of the site is a paddock with open countryside beyond. To the north east is an agricultural building served by an existing access to the front of the application site. The site and surrounding area is generally level.

Proposal

The application is in outline with all matters reserved except for access and proposes the erection of two two-storey semi-detached dwellings and a detached garage. A new vehicular access from Ashby Road would be created to serve both the proposed

9/2011/0146 - Land adj to 159 Ashby Road, Boundary, Swadlincote DE11 7BU



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South Derbyshire District Council. LA 100019461. 2010

dwelling and the existing agricultural building. The existing access would be closed off and planted with a boundary hedge.

The dwellings are required to meet the needs of the applicant's two sons both in their early 30s and employed locally. Neither can afford to buy a house and are not classed as priority on the Council's waiting list.

Applicants' supporting information

A supporting statement has been submitted with the application which includes the following details:

- The application site is a small infill area of land between the recently extended and enlarged public house and 159 Ashby Road.
- The rear of the application site is formed by tall (3m) dense conifer hedge. No open views of the countryside occur when the site is viewed from Ashby Road.
- The south side of the road is generally built up and planning permission has recently been granted on the site for additional infill housing west of the application site.
- The northern section of the road is significantly more built up close to the Greyhound, incorporating the public house, a terrace of houses and two detached dwellings. The application site forms a small gap in an otherwise built up frontage.
- Saved Housing Policy 6 identifies a presumption in favour of allowing infilling of small gaps in "other rural settlements".
- The present proposals are designed to meet the needs of persons unable to afford private market housing elsewhere in the locality. Being within a rural area the applicant is happy to agree to retain the houses for primarily persons requiring accommodation in the Hartshorne, Woodville and Blackfordby locality.
- PPS3 identifies planning permission for such housing in appropriate locations within rural areas should be supported by a Rural Exceptions Site Policy. Unsaved Local Plan Housing Policy 10 was such a policy. The recently updated and revised PPS3 supports the aims of that original policy.
- These two additional plots, as they are designed as self-build and affordable, meeting the needs of specific persons, are likely to come forward sooner than later and will add to local market and deliverable housing portfolio. The dwellings will be affordable because the land is to be provided at nil value and the houses will be self-built, reducing costs by up to 50%.
- There would be no objection to conditions or a S106 agreement requiring the houses to be initially marketed only to persons living in Hartshorne, Blackfordby and Woodville so local need housing can remain servicing the immediate catchment area.
- With the extension of the Greyhound the character of the northern side of Ashby Road has changed significantly and become more built up and less rural in character.
- The construction of houses on the application site will not significantly alter the character of this part of Boundary nor will it affect views into, or out of, the countryside.
- The site is in the National Forest meaning landscape work and tree planting should be maximised.

- Two dwellings are proposed; both will be 2 storeys in height with pitched roofs to match in with the adjacent building form.
- The front gardens will be tree planted to create a visual screen, breaking up views towards the dwellings.

Planning History

The site was subject to two previous refusals for a single dwelling in 1989 and 1990. A subsequent outline application for the erection of a dwelling and garage (9/2000/0363) was dismissed at appeal in October 2000. The Inspector considered that the appeal site made a significant contribution to the generally open character of the area north of Ashby Road which would contribute substantially less if much of the important visual gap between the public house and No. 159 Ashby Road were to be lost as a result of the proposed development. The proposal would cause unacceptable harm to the character and appearance of the countryside to the north of Ashby Road.

Responses to Consultations

The Highway Authority has no objection subject to conditions relating to the provision of the new vehicular access and provision of parking and manoeuvring facilities.

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

The Parish Council has no objection.

North West Leicestershire has no objection.

Responses to Publicity

One letter of objection has been received raising the following concerns:

- The site occupies an elevated position overlooking our property and we are disappointed that no image of the proposed front elevation is available.
- Increased risk of traffic conflict or incident with increased traffic leaving and joining a busy carriageway directly opposite our driveway, adjacent to a busy access to the Greyhound public house and within close proximity of a bus stop.
- The increased size and ease of access will lend itself to future development of the land behind the proposed development and further increased traffic.

Development Plan Policies

The relevant policies are:

EMRP: Policies 1, 2 and 3

Local Plan: Housing Policy 6, Housing Policy 8, Environment Policy 1 and Transport Policy 6

National Guidance

PPS3 & PPS7

Planning Considerations

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

- The principle of development
- Impact on the character of the area
- Highways

Planning Assessment

The Principle of Development

Housing Policy 6 allows for infill development of small gaps within other rural settlements of not more than two dwellings providing that the development is in keeping with the scale and character of the settlement. The previous appeal on the site was for a single dwelling. The Inspector considered that the appeal site was related to a dispersed scatter of properties that was not part of or closely related to a cohesive settlement. On the basis of this the Inspector deemed that Housing Policy 6 did not apply at this site and that the site should be regarded as being within the countryside. It is considered that this remains the case.

PPS3 requires Local Planning Authorities to have regarded several matters when determining planning applications for residential development, including: high quality design, sustainability, the efficient use of land and the achievement of wider policy objectives. It is considered that, given the scale of the proposed development it is unlikely to have a significant impact in terms of design, sustainability, the efficient use of land or wider policy objectives at the Regional and National level.

PPS7 seeks to control new residential development in rural areas to that which can be located within or adjoining existing towns or villages with special justification required for isolated new houses. The proposed development is not required in connection with a rural based activity and does not therefore meet the requirements of PPS7 or Housing Policy 8 (a similar requirement) for new dwellings in the countryside.

The application contends that the proposed development would meet a specific 'local need' as the applicant's children would occupy the dwellings. However, this would not satisfy the definition of affordable housing in PPS3 and therefore cannot be considered as a rural exception site.

Impact on the Character of the Area

The Inspector at appeal opined that the pattern of development on the northern side of Ashby Road is noticeably more dispersed than that to the south with significant gaps separating isolated pockets of buildings. He concluded that the appeal site made a significant contribution to the generally open character of the area north of Ashby Road, a contribution which would be significantly less if much of the visually important gap were to be lost between the public house and 159 Ashby Road.

It is reasonable to consider that the extension to the Greyhound public house will have reduced the contribution of this gap to the open character of the area to the north of Ashby Road, however, this does not mean that the contribution of the application site is

insignificant to this open character. Furthermore, and most importantly, it is not considered that the extension to the Greyhound public house has altered the nature of this area to become anything more structured than the 'dispersed scatter of properties' that the Inspector had previously considered it to be.

The extension of the public house was substantially to the west with less of an impact to the east and towards the application site. Furthermore, the granting of permission for the public house extension was influenced by the opportunity to upgrade the appearance of the existing building and bring a derelict public house and site back into use making a positive contribution to the appearance of the area and providing a community facility.

The current application proposed the erection of two dwellings and a detached garage which would subsequently have an increased impact on the open character of the area to that previously considered by the Inspector. Notwithstanding, the adjacent development at the public house and the planting of a tall hedge to the rear of the application site since consideration of the appeal, the site remains of a generally open character which contributes to the open rural character of the surrounding area the development of which would be contrary to Housing Policy 8 and Environment Policy 1 of the Local Plan.

Highways

Sufficient provision access and parking provision would be provided for the proposed development and the Highway Authority has no objection.

Recommendation

REFUSE permission for the following reasons:

1. The application site forms an important visual gap between the adjacent public house and No. 159 Ashby Road which makes a significant contribution to the generally open character of the surrounding dispersed, semi-rural development to the north of Ashby Road. The development of the site would result in the closing of this gap and the consolidation of sporadic development to the detriment of the rural character of the area and contrary to Saved Housing Policy 6 and 8, and Environment Policy 1 of the South Derbyshire Local Plan.
2. The application site forms part of a dispersed group of properties that is not part of, or closely related to a cohesive settlement and as such is considered to be in the countryside. The proposed residential development is not required in connection with a rural activity and in the absence of any appropriate justification the development is contrary to PPS7, Housing Policy 8 and Environment Policy 1 of the South Derbyshire Local Plan.