

# **REPORT OF THE HEAD OF PLANNING SERVICES**

**SECTION 1: Planning Applications**

**SECTION 2: Appeals**

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

-----



## **1. PLANNING APPLICATIONS**

This section 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.

Reference	Item	Place	Ward	Page
9/2006/1019	1.1	Midway	Midway	1
9/2006/0999	2.1	Hilton	Hilton	4
9/2006/1108	2.2	Linton	Linton	7

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 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 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.



31/10/2006

**Item** 1.1**Reg. No.** 9/2006/1019/FH**Applicant:**

Mr Carl Marshall  
16 Greenlands  
Midway  
Swadlincote  
Derbyshire  
DE11 0XS

**Agent:**

Mr Carl Marshall  
16 Greenlands  
Midway  
Swadlincote  
Derbyshire  
DE11 0XS

**Proposal:** The erection of an extension at 16 Greenlands Midway  
Swadlincote

**Ward:** Midway

**Valid Date:** 25/08/2006

**Reason for committee determination**

The applicant is an employee of the Council.

**Site Description**

The application property is a semi-detached house with a detached single garage situated to the south of the plot. The application site levels increase by approx 1/2m in from the front of the property, where it joins the public footpath. The neighbouring property, known as 14 Greenlands, is also approx 1/2m lower than the application site.

**Proposal**

The proposal is to erect a part two-storey and part single storey extension incorporating a garage. This will come no closer to the public highway at the front of the property than the existing dwelling, resulting in one parking space remaining on the driveway.

**Applicants' supporting information**

None

**Planning History**

An application for a part two-storey extension was submitted under planning reference 9/395/0967 but deemed refused because amended details were outstanding.



SOUTH DERBYSHIRE DISTRICT COUNCIL

Reproduced from the 1996 Ordnance Survey mapping  
with the permission of the controller of Her Majesty's stationary office.

(c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright,  
and may lead to prosecution or civil proceedings.

OS Licence No. LA 100019461 . 2005

SCALE 1:1250

## **Responses to Consultations**

No objections to the application.

## **Responses to Publicity**

None

## **Development Plan Policies**

The relevant policies are:

RSS8: N/A

Joint Structure Plan: N/A

Local Plan: HP13

## **Planning Considerations**

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

- Any possible overbearing or overlooking the proposal may have on neighbouring dwellings
- The acceptability of its design.

## **Planning Assessment**

Both elements of the extension are of an acceptable design and would fit in well with the character of the house. No part of the extensions would compromise the amenities of the neighbours and no standards would be breached.

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

## **Recommendation**

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.

**Informatives:**

The proposed development lies within a coal mining area. In the circumstances Applicants should take account of any coal mining related hazards to stability in their proposals. Developers must also seek permission from the Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at [www.coal.gov.uk](http://www.coal.gov.uk).



31/10/2006

**Item** 2.1**Reg. No.** 9/2006/0999/U**Applicant:**

Mr Mrs S Fardoe  
Hilton  
Derby  
DE65 5FY

**Agent:**

Mr Mrs S T Fardoe  
5 West Avenue  
Hilton  
Derby  
DE65 5FY

**Proposal:** The change of use from residential to bed and breakfast accommodation at 11 Main Street Hilton Derby

**Ward:** Hilton

**Valid Date:** 21/08/2006

**Reason for committee determination**

Councillor Littlejohn has requested that the application be brought before the Committee as there are other matters that require consideration by the Committee.

**Site Description**

The site is a long established dwelling on Main Street Hilton. Access to the site is via a drive that enters the site between the applicant's house and the adjacent house, the width of the gap is approximately 4.0 metres. The drive then opens into a wider yard area incorporating a garage.

**Proposal**

The proposal involves the conversion of part of the dwelling to bed and breakfast use. The application is supported by a letter from the Hilton House Hotel [that lies to the west of the site] that states that 2 parking spaces would be made available for occupiers of the rooms on the application site.

**Applicants' supporting information**

See above.

**Planning History**

An earlier application for change of use to a guesthouse was refused in December last year on highway safety grounds.

9/2006/0999/U 11 Main Street

Hilton



SOUTH DERBYSHIRE  
DISTRICT COUNCIL  
CIVIC OFFICES  
CIVIC WAY  
SWADLINCOTE DE11 0AH

Crown Copyright. All rights reserved.  
South Derbyshire District Council  
OS Licence No. LA 100019461. 2006

Date Plotted 19/10/2006  
Scale 1:2000

Licence No LA 079375

## **Responses to Consultations**

Councillor Mrs Littlejohn has no objection to the proposal and states that a recent village appraisal has highlighted the need for increased bed and breakfast accommodation. She is aware of the highway issues but the applicant has assured her that any condition requiring off site parking would be strictly adhered to.

Councillor Hood also supports the application and suggests that there is a need for this type of accommodation in Hilton. He also points out that there is on street parking available and that there is a public car park nearer to the site than the Hilton House Hotel.

The County Highway Authority has maintained its objection. It considers that any condition to limit access to the site by visitors on the basis that the access would remain open to allow access by the applicants to their accommodation would be impossible to enforce. The result may be that guests not knowing the situation would access the site via this access and then have to leave in circumstances where the risk of an accident is significant because of the narrowness of the opening and the total lack of visibility to the east for drivers emerging from the drive.

The Environmental Protection Manager has no comments on the proposal.

## **Responses to Publicity**

None

## **Development Plan Policies**

The relevant policies are:

RSS8: None

Joint Structure Plan: Leisure and Tourism Policy 5, Transport policy 15;

Local Plan: Recreation and Tourism Policy 1, Transport Policy 6.

## **Planning Considerations**

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

- The provisions of the Development plan
- The access to the site
- The proposed mitigation measures.

## **Planning Assessment**

Development Plan policies clearly support the provision of tourist accommodation. However both policies require there to be safe access.

The access to this site is narrow; there is no room for more than one vehicle to get into the site without either reversing out onto the highway or back into the site. The visibility for drivers emerging from the site to the east is non-existent unless the front of the vehicle emerges into the highway. The alignment of the road renders vehicles difficult to



see from further along the road. The increased use of this access would be therefore detrimental to highway safety.

This formed the reason for refusal at the end of last year. The applicants have sought to address the problem by securing access to 2 parking spaces at the Hilton House Hotel that lies to the west of the site. Councillor Hood also points out that on street parking is available outside the premises and that there is a public car park closer to the site than the Hilton House Hotel. It is suggested by Councillor Mrs Littlejohn that the applicants would be willing to comply with any strict conditions imposed by the Local Planning Authority to ensure that there is no increased use of the access.

Whilst on the surface this may provide an apparent solution to the problem, officers remain concerned that the enforcement of such a condition would not be possible. The same situation pertains for pedestrian intervisibility. Someone emerging from the site would have no view of any person using the footway across the access.

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

## **Recommendation**

**REFUSE** permission for the following reasons:

1. Approval of the proposal would result in an increase in the use of an access where visibility is substandard contrary to the best interests of highway safety and the requirements of Recreation and Tourism Policy 1 of the adopted South Derbyshire Local Plan whereby safe access is a requirement of the policy.
2. Approval of the proposal would result in vehicles emerging from the access and across the footway in a location where pedestrian intervisibility is restricted to the detriment of pedestrian safety.
3. The access is of insufficient width for two vehicles to enter and leave the site at the same time. Approval of the proposal would result in vehicles waiting for longer on the classified highway to allow another vehicle to exit the site. Alternatively use of the access would lead to vehicles reversing onto the highway under conditions of restricted visibility to allow another vehicle to leave all of which would be detrimental to highway safety.

31/10/2006

**Item** 2.2**Reg. No.** 9/2006/1108/FH**Applicant:**

Mr Mrs D Stephen  
 10 Sycamore Close  
 Linton  
 Swadlincote  
 Derbyshire  
 DE12 6PS

**Agent:**

Mr Mrs D Stephen  
 10 Sycamore Close  
 Linton  
 Swadlincote  
 Derbyshire  
 DE12 6PS

**Proposal:** The erection of an extension at 10 Sycamore Close  
 Linton Swadlincote

**Ward:** Linton

**Valid Date:** 18/09/2006

**Reason for committee determination**

The application is brought to Committee for determination at the request of Councillor Lauro, who states that: unusual site circumstances should be considered by the committee; he has no objection to the application and the immediately affected neighbour is in favour.

**Site Description**

The property is a three bedroom semi detached house with vehicle access at the side, and is within an established area of residential development. The rear garden and garage of no.8 adjoin the side boundary.

**Proposal**

The application is for a two storey side extension the full length of the house, involving a first floor bedroom and bathroom, with a vehicle drive through underneath.

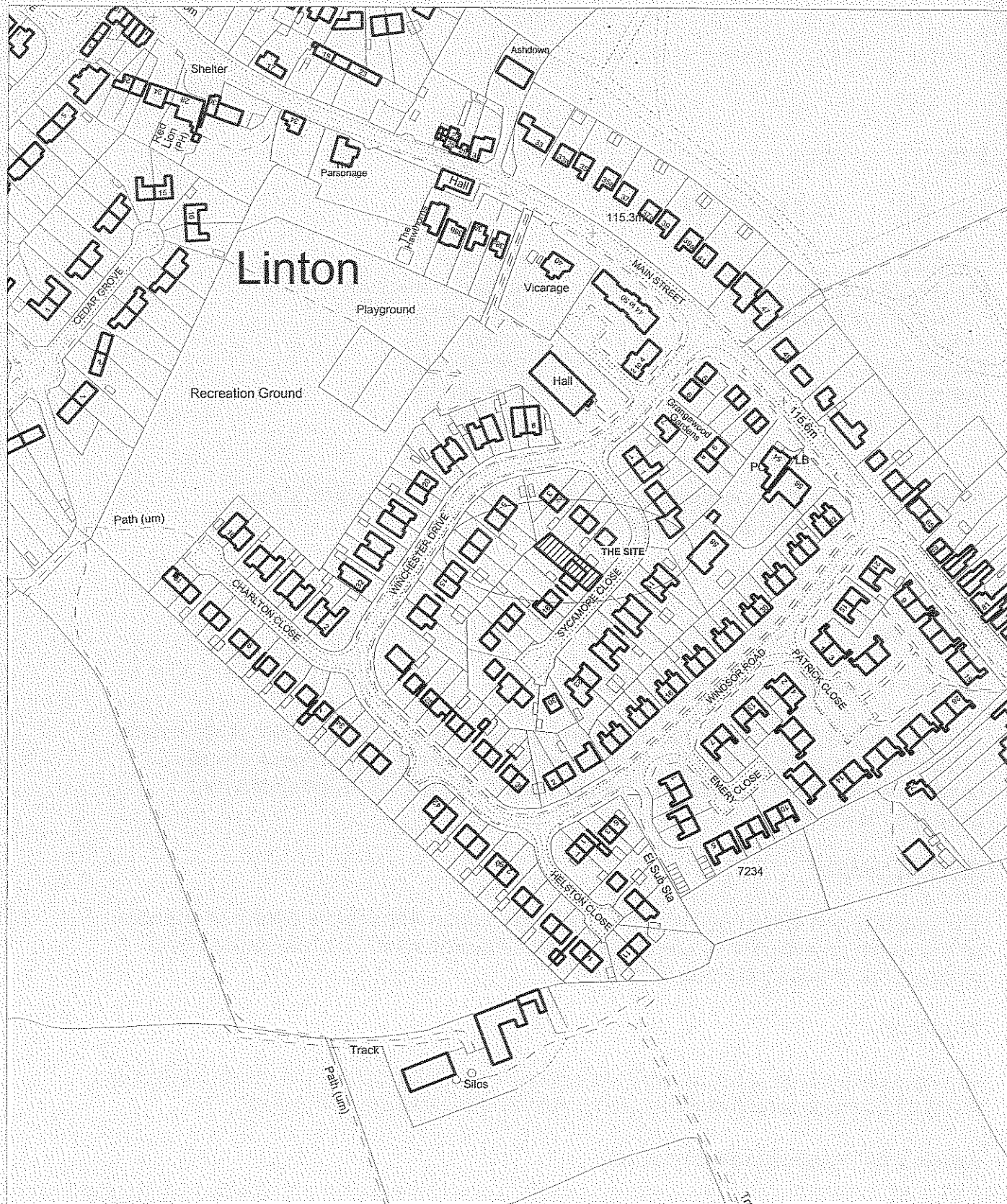
**Applicants' supporting information**

The applicant has enclosed a letter of support from the neighbours at no.8, who feel that the extension would make their property more secure.

**Planning History**

None

**Responses to Consultations**



South Derbyshire  
District Council  
Civic Offices  
Civic Way  
Swadlincote  
DE11 0AH

9/2006/1108/FH 10 Sycamore Close  
Linton

Crown Copyright. All rights reserved.  
South Derbyshire District Council  
OS Licence No. LA 100019461. 2006

Date Plotted 19/10/2006

NORTH ↑

Plot centred at 427610 316469

Scale 1:2500



None

### **Responses to Publicity**

None

### **Development Plan Policies**

The relevant policies are:

Local Plan: Housing Policy 13

### **Planning Considerations**

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

- Residential Amenity
- Design

### **Planning Assessment**

The key issue in this application is the impact of the extension on the amenities of no.8, in terms of its proximity to the conservatory attached to the rear of that property. This Council's supplementary planning guidance calls for a minimum of 9 metres to be provided in such relationships, whereas if the extension was allowed only 8.1m would remain in this instance.

It is considered that the 2 storey blank wall of the extension would have an unacceptable enclosing effect on the outlook from no.8's conservatory, which is directly opposite. It would be overbearing, and cause some light loss to both the conservatory and the rear garden. It is also important to note that even if the conservatory had not been added to the house, only 10.9m would remain to the lounge window, which also contravenes the required guideline of 12m.

The comments of both the neighbour and Councillor Lauro are noted, but it is important that the Council consistently applies the policies and guidelines that it has approved, in order not to set unfortunate precedents that could be used against it in the future, and to maintain acceptable standards of layout and design, for the good of the community as a whole.

In design terms the proposal is acceptable.

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

**Recommendation**

**REFUSE** permission for the following reason:

The proposed extension would have an overbearing and enclosing effect on the outlook from the rear of no.8 Sycamore Close, particularly in respect of its conservatory. The proposal would therefore be detrimental to the residential amenities of its occupiers, contrary to Policy HP13 of the South Derbyshire Local Plan and to the Council's Supplementary Planning Guidance.

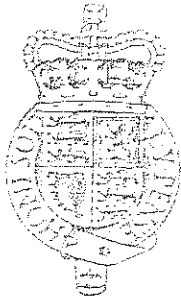


## 2. PLANNING AND OTHER APPEALS

(references beginning with a 9 is planning appeal and  
references beginning with an E is an enforcement appeal)

Reference	Place	Ward	Result	Cttee/delegated
E2005/0006	Linton	Linton	Allowed but notice upheld	Delegated
9/2005/0802	Linton	Linton	Allowed	Cttee
9/2006/0245	Ticknall	Hartshorne & Ticknall	Dismissed	Delegated
9/2005/1380	Egginton	Etwall	Dismissed	Delegated
9/2006/0230	Weston	Aston	Dismissed	Delegated





# Appeal Decision

Hearing held on 12 September 2006

by **Steven Fox** BA MA MRTPI

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

The Planning Inspectorate  
411 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail: enquiries@planning-  
inspectorate.gov.uk

Date

**26 SEP 2006**

**Appeal A: APP/F1040/C/06/2015966**

**Land to the East of 180 Linton Heath, Linton, Swadlincote**

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr W McCain against an enforcement notice issued by South Derbyshire District Council.
- The Council's reference is E2005/.
- The notice was issued on 6 April 2006.
- The breach of planning control as alleged in the notice is the erection of a free-standing brick structure to house an electricity supply point and associated meter.
- The requirements of the notice are:
  - (i) to remove the brick structure from the site
  - (ii) to remove from the site and dispose of at an authorised location any building or other materials resulting from carrying out step (i)
  - (iii) to restore the land to agricultural use by levelling the ground and re-seeding it with grass.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in Section 174(2)(f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under Section 177(5) of the Act as amended does not fall to be considered.

**Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.**

**Appeal B: APP/F1040/A/06/2009662**

**Land to the East of 180 Linton Heath, Linton, Swadlincote**

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr W McCain against the decision of South Derbyshire District Council.
- The application Ref 9/2005/0802/U, dated 30 June 2005, was refused by notice dated 26 October 2005.
- The development proposed is use as a residential caravan site for one gypsy family including new access, hardstanding and landscaping.

**Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.**

## **Appeal A - Matters Relating to the Enforcement Notice**

1. At the hearing I indicated that in my opinion Step 3 was excessive and unreasonable. The step relates to all the land identified on the notice plan rather than the small area affected by the unauthorised works. But, more fundamentally, it goes beyond returning that part of the

site to its condition before the breach occurred by requiring re-seeding and restoration to agricultural use. There is no evidence that the land was formerly grassed; the impression I gained was that it was overgrown with weeds and brambles.

2. The Council accepted that, for the above reasons, the notice's requirements go beyond what is necessary to remedy the breach of planning control and agreed that Step 3 should be deleted. As this matter forms the sole basis of the ground (f) appeal that particular ground of appeal is successful and I shall vary the notice accordingly.

#### **Appeal B - The Appeal Against the Refusal of Planning Permission**

##### *The Appeal Site*

3. The site is on the north-west side of Linton Heath, immediately to the north-east of the end property in a ribbon of residential development (no. 180). There is further frontage housing on the opposite side of the road. Adjoining the site is an area of bush and woodland which forms part of the extensive Foxley Wood, within the National Forest. At the rear is open land, beyond which are other blocks of woodland.

##### *Planning Policy*

4. Both structure and local plans contain policies relevant to gypsy sites. The structure plan says that provision will be made for permanent and transit sites (Housing Policy 8) and in Housing Policy 15 the local plan sets out six criteria against which applications will be considered. The Council's objections to the appeal proposal are based on non-compliance with two of these criteria; (ii) the requirement that sites be satisfactorily located in relation to other development and (vi) that adequate provision is made for access. Transport Policy 6 resists proposals that interfere with the free and safe flow of traffic, and requires all development to incorporate adequate provision for access. Also of particular relevance is the up-to-date central government advice on gypsy and travellers caravan sites set out in Circular 01/2006.

##### *Matters Relating to Gypsy Site Provision and Need*

5. The Council does not dispute the appellant's gypsy status. As far as site provision is concerned there are two local authority sites in the District, at Lullington and Foston, the latter having been closed for refurbishment works to increase the capacity from 19 to 22 pitches. The authorised private sites are occupied by family and extended family groups and an increase in the capacity of the Crafty Flatts Lane site from two to eight pitches has recently been approved on appeal. There is evidence, from the Council's counts, of persistent and significant unauthorised encampments, both at the roadside and on private land. In addition the submitted details of planning applications and appeals over the last five years indicate pressure for the provision of additional private sites.
6. Although there will be increased provision (three plots) at Foston when the site reopens in the near future I was told that 14 plots are already allocated, others are under discussion and a small number will be retained for use as transit stops. Prior to its closure this site was full, with a waiting list. It was also said that the additional pitches at Crafty Flatts Lane will be taken up by the extended family of the present occupiers.
7. The proposed county-wide accommodation assessment has not yet commenced, although a start is expected shortly and the anticipated survey period is one year. But from the data

currently available, which I consider to be soundly based, the overall picture is one of an unmet need for gypsy sites in the District.

8. As far as the appeal site is concerned the Council accepts that, as stated in Circular 01/2006, sites on the outskirts of built-up areas may be appropriate, and that rural settings are acceptable in principle. Nor is there objection to the location of the site in terms of the proximity of local services. I consider that this particular location offers significant benefits for the settled education of the appellant's children because of the accessibility of Overseal School, which they currently attend when not travelling.
9. My conclusion is that there is a demonstrable unmet need for gypsy sites in the District and the appeal site's location in terms of its relationship to the existing settlement and services would accord with the advice in the Circular. However, whilst these factors weigh in the appellant's favour the suitability of the site in relation to adjoining development and the adequacy of the proposed access are issues which must be considered.

#### *The Suitability of the Site in Relation to Neighbouring Development*

10. There is an established pattern of frontage development along the north-west side of Linton Heath, with houses being conventionally aligned and having front and rear gardens. The proposed development would in effect extend this ribbon of residential development, but in view of the acceptability of gypsy sites on the edge of settlements and the low-key nature of the proposal it would not be out of keeping with its surroundings. I consider that in visual terms it would represent an appropriate transition between the built development and the woodland area to the north-east.
11. Turning to consider the effect of the development on the residential amenities of occupiers of no. 180 I noted that the boundary with that property comprises a concrete panel fence some 1.5 to 1.75m in height. There is also a garage alongside the fence, linked to the rear corner of the house by a high brick wall. The garage and brick wall effectively screen the area immediately behind the house and the presence of the solid boundary fence would help prevent overlooking of the rear garden area. I accept that there could be problems, bearing in mind that caravan floors are some 0.3m above ground level, if the caravans were positioned close to the boundary and aligned with their windows facing onto the rear garden of 180. But the siting shown on the submitted plan and the possibility of introducing landscaping along the boundary would prevent undue overlooking and adequately protect residential amenity. The siting of the caravans and the implementation of adequate landscaping are matters that can be controlled by planning conditions.
12. Consequently I conclude that there are no compelling objections to the proposed development in relation to its effect on its surroundings, and that there would be no conflict with criterion (ii) of local plan Housing Policy 15.

#### *Highway Safety*

13. The proposal involves the formation of a new vehicular access onto Linton Heath. The site frontage of some 14m presently has a thorn hedge behind a grass verge. The road is subject to a 30mph speed limit and the guidelines set out in Places Streets and Movement, a companion guide to Design Bulletin 32 (DB32) advises that for small developments (up to six dwellings or thereabouts) sightlines of 2 x 90m are appropriate.

14. There is agreement between the parties that an adequate sightline can be achieved to the south-west. However, to the north-east visibility is restricted by the hedge on the frontage beyond the appeal site. When the Highways Officer visited in March 2006, at a time when the hedge had been cut back and was not in leaf, the required visibility to the carriageway edge could be achieved in this direction. However, as I saw on my visit, during the summer months before the hedge is trimmed its foliage reduces visibility to some 51m (measured to the edge of the carriageway). Although the County Council mow the grass verge as part of a regular maintenance schedule the appellant has no control over the trimming of the hedge on the adjoining section of frontage.
15. Places Streets and Movement says that the guidance given needs to be assessed in the circumstances of each case but emphasises that sightlines should never be reduced to a level where danger is likely to be caused. The appellant also drew my attention to the Manual for Streets, which is currently at the post-consultation stage and is intended to replace DB32 and Places Streets and Movement. This document incorporates recommended stopping sight distances as a basis for forward visibility at junctions. Applying these recommendations to the appeal situation with a design speed of 37mph would give a splay requirement of 56m. However, whilst the document reflects an intention to review the method of determining appropriate visibility splays it is possible that its contents and recommendations could change before final publication. This reduces the weight attaching to it.
16. I spent some time at the site prior to and during the hearing and paid particular attention to the flow and speed of traffic along Linton Heath and the extent to which vehicles approaching from the north-east would be visible to the driver of a vehicle leaving the appeal site, in order to assess whether adequate visibility exists to enable a driver, who may at times be towing a caravan, to emerge safely without unduly interrupting the flow of traffic.
17. The appellant says that certain circumstances relating to visibility at the proposed access should be taken into account. As I saw, roadside parking occurs in front of the terraced housing to the north-east and it was not disputed that this parking is persistent and serves to reduce the speed of approaching vehicles. Also, it was argued that a slight bend in the road allows vehicles to be seen in the distance and, further, that the agreed measurement of a 98m sightline to the centre of the carriageway would provide for satisfactory inter-visibility between drivers.
18. The factors referred to by the appellant are relevant to my consideration of the acceptability of visibility to the north-east. Although the hedge on the adjoining boundary limits visibility to below the guidelines that are currently used the particular circumstances present here combine to warrant accepting a reduced sightline to the carriageway edge. Taking into account the observed traffic conditions I consider that the visibility available is such that drivers could enter and leave the appeal site without interrupting the free flow of traffic or representing a potential danger to other road users.
19. Therefore I conclude that the use of the proposed access would not compromise highway safety and therefore there would be no conflict with criterion (vi) of local plan Housing Policy 15.

20. I have taken into account all other matters raised, including the history of refusals for residential development on the site, but find nothing to alter my conclusion that this proposal, which has been considered on its own merits and in the light of the situation relating to the provision of gypsy sites in the District, would not conflict with the development plan policies referred to above. Consequently I shall allow the appeal.

*Conditions*

21. The Council suggested a number of conditions that were fully discussed at the hearing. Because the acceptability of the development is primarily due to the application of policies and the overall situation regarding the provision of gypsy sites it is necessary to restrict occupancy to ensure that the site remains available for use by the gypsy community. Also, to ensure that the development is of an acceptable scale in relation to its surroundings it is appropriate to limit the number of caravans on the site at any one time to that currently proposed. Restrictions on commercial activity taking place and on the parking or storage of vehicles exceeding 3.5 tonnes are necessary to protect nearby residents from undue disturbance. The visual impact of the caravans, vehicles and hard surfaced areas on the site could effectively be softened by landscaping and appropriate boundary treatment. Such works, together with controls over the siting of the caravans, would also serve to protect the residential amenities of occupiers of no. 180.
22. Because no details have been submitted it is necessary for the Council to approve drainage arrangements prior to the use commencing. In order to ensure that the best possible access layout and visibility is achieved and maintained details of design and construction, including the location of any gates to be installed, should be approved and the works carried out prior to the use commencing. To prevent the possibility of vehicles having to reverse into or out of the site details of parking and manoeuvring spaces should also be submitted for approval.

*Formal Decisions*

*Appeal A: APP/F1040/C/06/2015966*

23. I allow the appeal on ground (f), and direct that the enforcement notice be varied by the deletion of Step 3 from Schedule 3 of the notice.
24. Subject to this variation I uphold the enforcement notice.

*Appeal B: APP/F1040/A/06/2009662*

25. I allow the appeal, and grant planning permission for the use of land to the east of 180 Linton Heath, Swadlincote as a residential caravan site for one gypsy family, including new access, hardstanding and landscaping, in accordance with the terms of the application. Ref 9/2005/0802/U, dated 30 June 2005, and the plans submitted with it, subject to the following conditions:
- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
  - 2) This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites).

- 3) No more than two caravans shall be stationed on the site at any time. The caravans shall be stationed only in positions agreed in writing by the local planning authority prior to the commencement of the use hereby permitted. No caravan shall be stationed on the site that is not capable of being towed legally on a public road.
- 4) No commercial activity shall take place on the site.
- 5) No vehicles which exceed 3.5 tonnes unladen weight shall be parked or stored on the site.
- 6) No development shall take place until full details of both hard and soft landscape works, including boundary treatments, have been submitted to and approved in writing by the local planning authority. All works shall be carried out in accordance with the approved details. The works shall be carried out before any residential caravans are brought onto the site or in accordance with a programme agreed in writing by the local planning authority. Any trees or plants which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) No residential caravans shall be brought onto the site until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority.
- 8) Prior to any other works commencing the entire site frontage shall be cleared, and maintained thereafter clear, of any obstruction exceeding 1m in height relative to the nearside carriageway edge (600mm for vegetation) for a distance of 2m into the site from the highway boundary.
- 9) No development shall take place until full details of the design and construction of the new vehicular access onto Linton Heath have been submitted to and approved in writing by the local planning authority; and no residential caravans shall be brought onto the site until that access has been constructed in accordance with the approved details. No gates shall be installed at the access other than in a position agreed in writing by the local planning authority.
- 10) No residential caravans shall be brought onto the site until parking spaces and turning/manoeuvring areas have been provided in accordance with details to be submitted to and agreed in writing by the local planning authority. Thereafter the parking, turning/manoeuvring areas shall not be used for any other purpose.

*Steven Fox*

Inspector



## APPEARANCES

### FOR THE APPELLANT:

Mr P Brown BA MRTPI	Philip Brown Associates
MR J P Hurlstone BSc CMILT	Managing Director, The Hurlstone Partnership
MIHT	
Mr W McCain	The Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Ms M Gibson	Area Planning Officer
Mr G Fairs IEng FIHIE MIHT	Area Development Manager, Derbyshire County Council

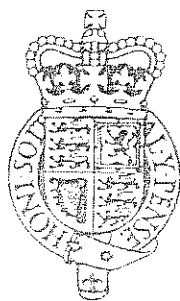
### INTERESTED PERSONS:

Clr D Southern	Local Ward Councillor
Clr A Hasell	Chairman, Linton Parish Council

## DOCUMENTS

Document 1	List of persons present at the hearing
Document 2	Hearing agenda
Document 3	Statement submitted by Mr Hurlstone.





# Appeal Decision

Site visit made on 5 September 2006

by **Julie Dale Clark** BA (Hons) DpTRP MCD DMS MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail: [enquiries@planning-inspectorate.gsi.gov.uk](mailto:enquiries@planning-inspectorate.gsi.gov.uk)

Date: 29 September 2006

**Appeal Ref: APP/F1040/A/06/2017383**

**Land to the west of 25 Chapel Street, Ticknall DE73 7JY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs J Bentley against the decision of South Derbyshire District Council.
- The application (Ref 9/2006/0245/F), dated 27 February 2006, was refused by notice dated 25 April 2006.
- The development proposed is the erection of one house.

**Summary of Decision: The appeal is dismissed.**

## Main Issue

1. I consider that the main issue is whether the proposed house would preserve or enhance the character or appearance of the Ticknall Conservation Area.

## Planning Policy

2. The development plan includes the Regional Spatial Strategy for the East Midlands (RSS8), the Derby and Derbyshire Joint Structure Plan, adopted in 2001 and the South Derbyshire Local Plan, adopted in 1998.
3. RSS Policy 27 establishes that sustainable development should ensure the protection, management and enhancement of the regions national and cultural assets. Structure Plan Environment Policy 9 indicates the desirability of preserving or enhancing the special character or appearance of conservation areas and that planning permission will not be granted for development proposals that would be detrimental to the character, appearance or setting of a conservation area. The thrust of this is carried forward in Local Plan Environment Policy 12.

## Reasons

4. The proposed house would be sited close to the boundary of the Conservation Area to the north of which there are open fields. No 25 Chapel Street is set well back from the road and its outbuildings to the rear are close to the field boundary. Other properties, such as Nos 19 and 21 Chapel Street are much closer to the road; the appeal site effectively sits behind these. I note that the Council has previously approved an application for a dwelling roughly in the same position as proposed here.
5. From my view of the area there are a mix of properties and no obvious single character or pattern was evident. However, the edge of this part of the Conservation Area is generally

softened by vegetation with the adjacent outbuildings to No 25 set fairly low in the landscape. Having said this there are examples where buildings are close to the boundary of the Conservation Area and on the edge of open fields although I did not see anything that was quite of this scale and bulk.

6. The proposed house would be substantial in size and from the fields to the north it would appear as a large mass taking up most of the width of the site. Its continuous ridge line at two stories would provide no break or relief in the buildings profile and in my view would appear dominant, bulky and out of keeping with the area. I also consider that the building would not sit well in the context of the other buildings around it and I agree with the Council that the front projection that would accommodate the lounge and bedroom I would effectively turn its back on No 25.
7. I note that the design and form of the house picks up on some of the characteristics to be found in the area and its large barn like appearance would not necessarily be out of keeping in a rural area. However, I have had regard to the fact that Section 72(1) of the Planning (Listed Building and Conservation Areas Act) 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. In this case I find that the proposal neither preserves nor enhances the character or appearance of the Ticknall Conservation Area and as such conflicts with the development plan policies referred to above.

#### **Conclusion**

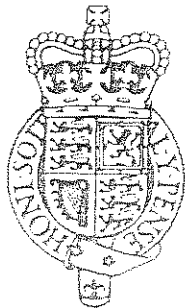
8. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

#### **Formal Decision**

9. I dismiss the appeal.

*J D Clark*

INSPECTOR



# Appeal Decision

Site visit made on 5 September 2006

by **Dannie Onn** RIBA IHBC

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail: [enquiries@planning-inspectorate.gsi.gov.uk](mailto:enquiries@planning-inspectorate.gsi.gov.uk)

Date: 6 October 2006

**Appeal Ref: APP/F1040/A/06/2014348**

**St Wilfrid's Parish Church, Church Road, Egginton, Derbyshire, DE65 6HP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by St Wilfrid's Church Parochial Church Council (PCC) against the decision of South Derbyshire District Council.
- The application Ref 9/2005/1380/F, dated 18 November 2005, was refused by notice dated 2 February 2006.
- The development proposed is the installation of 5 stainless steel light bollards together with a matching light on the boiler house.

## Procedural Matter

1. I have amended the description of the development to the wording of the Council's decision notice because it more accurately describes the proposals.

## Decision

2. I dismiss the appeal.

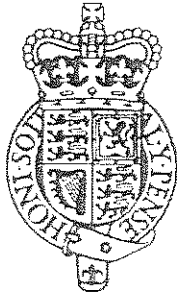
## Reasons

3. St Wilfrid's Church is a small, stone building which evolved during the 14th-17th centuries and was restored in the 19th. It is listed for its special architectural and historic interest. Although an accumulation of forms, it is a pretty rural building and is set back from the country lane in a well-kept, verdant churchyard, largely surrounded by trees. The access from Church Street includes a vehicle turning about a planted area, which contains an old gas lamp standard. From there, a gateway leads to a narrow drive through an avenue of trees. This formal access is a significant element in the setting of the church.
4. The proposed lighting bollards would represent modern, urban elements at odds with the ancient fabric and rural setting of the church. They would also interrupt the natural character of the avenue along the drive. I consider that they would detract from the historic character of the church and its setting. That would be contrary to those Policies of the development plan which seek to protect listed buildings and their settings.
5. I acknowledge that lighting is needed to allow safe use of the church after dark in the evenings and that increased use of the church will assist its long term preservation. However, I consider that a solution to provide sufficient light without the harmful effects of a row of bollards must be possible.

6. I have seen the bollard lights referred to at the church at Marchington Woodlands. The approach to the building there is different from Egginton. I do not consider that the lights there indicate that this appeal should be allowed.

*Dannie Onn*

INSPECTOR



# Appeal Decision

Site visit made on 5 September 2006

by Julie Dale Clark BA (Hons) DpTRP MCD DMS MRTPI

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

SOUTH DERBYSHIRE DISTRICT COUNCIL  
Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail: enquiries@planning-  
inspectorate.gsi.gov.uk

Date: 16 October 2006

**Appeal Ref: APP/F1040/A/06/2017245**

**Rio Vista, Swarkestone Road, Weston-on-Trent DE72 2BU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Karl Griffiths against the decision of South Derbyshire District Council.
- The application (Ref 9/2006/0230/O), dated 23 February 2006, was refused by notice dated 20 April 2006.
- The development proposed is outline application for 1 detached dwelling within the curtilage of an existing dwelling house.

**Summary of Decision: The appeal is dismissed.**

## Procedural Matter

1. This is an outline application with access applied for at this stage but all other matters reserved for later determination. Although no detailed plans have been submitted showing the access, Rio Vista currently has two accesses, one of which would remain within its curtilage and the other would provide access to the proposed dwelling. This is quite clear from the photographs submitted with the appeal and from my observations on site.

## Main Issues

2. I consider that the main issues are:-
  - (1) the effect of a dwelling on the character and appearance of the area and whether this would be a sustainable form of development; and
  - (2) the effect on highway safety.

## Planning Policy

3. The development plan includes the Regional Spatial Strategy for the East Midlands (RSS8), the Derby and Derbyshire Joint Structure Plan, adopted in 2001 and the South Derbyshire Local Plan, adopted in 1998.
4. The most relevant RSS policies are Policies 2, 3, 5 and 6. Policy 2 sets out the locational priorities for development and establishes a sequential approach. Policy 3 sets out sustainability criteria and Policy 5 prioritises the concentration of development in urban areas. Policy 6 sets out a list of criteria for ensuring new development maintains the distinctive character and vitality of rural communities, strengthens rural enterprise, shortens journeys and facilitates access to jobs.

5. Relevant Structure Plan (SP) policies include General Development Strategy Policies 1 and 4 and Housing Policy 6. Relevant Local Plan (LP) policies include Housing Policy 8 and Environment Policy 1.
6. SP General Development Strategy Policy 1 establishes that new development will respect the principles of sustainable development. General Development Strategy Policy 4 indicates that, amongst other things, development will be permitted away from settlements if it can be shown to be appropriate in such a location and can be designed and positioned to minimise any adverse impact on the environment. Housing Policy 6 establishes that new housing development in areas away from existing settlements will only be permitted if it can be shown that such a location is essential and it can be shown that it is necessary for a rural based operation.
7. LP Housing Policy 5 indicates that new housing development will be restricted to that which can be accommodated within the village confines. The list of villages that this policy refers to are listed and identified on the proposals map, included is Weston-on-Trent. LP Housing Policy 8 carries forward the thrust of SP Housing Policy 6 and LP Environment Policy 1 states that, amongst other things, new development outside settlements will not be permitted unless it is essential to a rural based activity.
8. Relevant national guidance includes Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1), PPS7: *Sustainable Development in Rural Areas*, Planning Policy Guidance Note 3: *Housing* (PPG3) and PPG13: *Transport*.

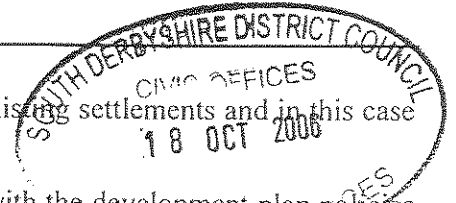
#### Reasons

##### *The first issue: character and appearance / sustainable development*

9. The appeal site currently forms part of the garden to Rio Vista, one of three properties located west of the village settlement of Weston-on-Trent and outside of the village confine as defined by LP Policy H5. Therefore, whilst the site is close to the village it is distinctly outside the main built-up area. The Council's development plan policies are quite clear that there are constraints to new housing development outside the village settlement. Such policies aim to limit the spread of development in rural areas in order to retain the rural character and appearance of the area.
10. This development would be in the existing domestic garden of Rio Vista and the boundaries of the site are clearly defined by a mature row of trees to the eastern side of the site together with garage buildings, a railway line to the south and Rio Vista itself to the west. It would therefore fall under PPG3's definition of previously developed land. Also there is a difference in land levels between the existing house and the appeal site which would help reduce the appearance of a dwelling. However, in my view, none of these factors justify overriding the development plan policies.
11. The site is close to the village of Weston-on-Trent and although the facilities and services in the village are limited a broader range is available in nearby Aston-on-Trent and other settlements. Also details have been submitted of a bus service. However, whilst occupiers of the proposed house may not need to exclusively rely on the use of a car, the site is physically separate from the village settlement and this in itself makes it less sustainable than a village location. The thrust of national guidance and development plan policies



referred to above is for sustainable development within existing settlements and in this case the appeal site is clearly outside the village.



12. I conclude on this issue that the proposal would conflict with the development plan policies referred to above and to national guidance. A new dwelling physically separate from the village would have a harmful effect on the character and appearance of the area and given the site's location outside the village settlement this would not be a sustainable form of development.

*The second issue: Highway safety*

13. There is no dispute between the Council and the appellant that adequate visibility can be achieved to the west and I agree. However, due to a slight curve in the road visibility to the east is restricted. I observed that vehicles travel fairly fast on Swarkestone Road although at the time of my visit it was not particularly busy. I am mindful that the access currently exists and the amount of traffic associated with one dwelling would be limited. However, given traffic speeds, on balance I am minded to take a precautionary approach and conclude that the vehicular movements associated with the proposed new dwelling would be harmful to highway safety.

**Conclusion**

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

**Formal Decision**

15. I dismiss the appeal.

*J D Clark*

INSPECTOR

