

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.

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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 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.

Item **1.1**

Reg. No. **9/2007/1161/M**

Applicant:

Assura Property Ltd &
LSP Development Ltd
Ashby De la Zouch
Leicestershire
LE65 2FR

Agent:

West Hart Partnership
5 Aldergate
Tamworth
Staffordshire
B79 7DJ

Proposal: **Outline application (all matters except layout, scale and means of access to be reserved) for the development of retail unit A1, A1/A2 and A5 plus 16 apartments (minimum 14 two bedroom units), associated car parking, landscaping and access at Land Off Glamorgan Way Church Gresley Swadlincote**

Ward: **Gresley**

Valid Date: **04/10/2007**

Reason for committee determination

This is a major application and more than two letters of objection have been received. The recommendation below does not correspond with the recommendation of the Council's Pollution Control Manager.

Amendments to the report taken original to the committee of 15 January are reported in italics for clarity. Members will recall that at the committee of 5 February, having visited the site, determination of the application was deferred to allow further negotiation to take place with the applicant to secure an amendment to the design of the block. However, the applicants have declined the invitation to reconsider the design and as such offers further information for the committee to consider before it arrives at a final decision. This is set out in the Applicants Supporting Information section below.

Site Description

This is a part of a designated area of land for use as a local centre to serve a development of upwards of 1,200 dwellings. It occupies a prominent corner on the main road through the estate among recently completed dwellings and a public open space area to the north. A footpath/cycleway is designed to run along the northern boundary alongside a wooded link though the estate. The line of a public footpath runs through the site and would therefore require diverting.



 <p>South Derbyshire District Council Civic Offices Civic Way Swadlincote DE11 0AH</p>	<p>9/2007/1161/O Land off Glamorgan Way Church Gresley</p>	<p>Date Plotted 4/1/2008</p>	<p>NORTH ↑</p>
	<p>Crown Copyright. All rights reserved. South Derbyshire District Council OS Licence No. LA 100019461. 2006</p>	<p>Plot centred at 428533 318026</p>	<p>Scale 1:2500</p>

Proposal

Whilst the scheme is submitted for outline permission, layout, scale and means of access are submitted for approval now. The scheme shows a single three-story, flat-roofed block alongside the proposed medical centre (see previous item) with three A1/A2 units and two A5 (hot food takeaway) units on the ground floor. The scheme also shows 16 dedicated spaces for the apartments and some additional parking space in front of the retail units to compliment the larger car park to the south. An amended plan shows the building moved further away from the Brunel Way frontage to allow for some better landscaping and distance from the houses opposite.

Applicants' supporting information

The applicants' have submitted a design and access statement that includes the following comments in support of the application. The residential and retail elements of the neighbourhood centre will strengthen the overall community usage and reinforce the strong identity and structure enhanced by the adjoining development. The contemporary architectural language is employed to provide a distinctive local identity and has been an important aspect from the planner's perspective. The design provides for good pedestrian access to the public areas, dedicated car and cycle parking.

In addition to the previous information, the applicants have submitted the following information which they would wish the committee to consider before making a decision:

The design of the overall Neighbourhood Centre to include the Medical Centre has not been developed in isolation by the applicants, but in conjunction with the Local Authority, following a number of detailed meetings. The key consulted members were the Planning, Highways and Urban Design Officers.

Architectural Style

The design very much compliments the Medical Centre, and together they create a distinguishable commercial centre, of quality that will become a focal point for the surrounding neighbourhood.

Whilst the neighbourhood development is 3 storeys, and the medical centre is 2, the architectural style of the two buildings is very similar and will be read in conjunction. The key materials, namely the brick, render, fenestration and roof are replicated to promote continuity.

A table (provided) gives an indication of the various building heights, based on a section across the sites. Brunel Way is taken to be the datum and it highlights that the overall height of the Neighbourhood Centre is above the surrounding residential, but certainly not out of context. Furthermore, the ridge height for the Neighbourhood Centre is only 1.8 metres above that for the approved Medical Centre, based on the datum level.

Car Parking and Use

The blend of uses provided for within the Local Centre, compliments the approved Medical Centre. Analysis shows that Local Centres are relatively quiet through the core hours of the day, their peaks tending to be late afternoon/early evening and weekends. Whereas the Medical Centre helps maintain vitality for the overall development, its usage being during the core hours on weekdays only.

In accordance with Highway Standards, the development including for the surgery, provides for circa 90 spaces, which have been provided in three defined areas, to prevent a single mass of parking. There should certainly not be any requirement for on-street parking to serve the Centre.

Natural Surveillance

It is generally recognised that the incorporation of an element of residential within a Neighbourhood Centre creates a sense of ownership and provides a level of natural surveillance. It also helps enhance vitality.

Conclusion

This is a development of distinction that through its architectural design and range of uses, will create a dynamic public realm, promoting use and vitality in a safe, well populated area environment.

It will create a heart for the community and is of the right architectural style and quality to ensure a distinguishable, coherent development.

The design is subjective and consistency is all important. Comments have been made on "people's views" in relation to design. As a matter of course, the applicants always take heed of public responses and to their knowledge no objections or comments were made in respect of the outline design. To this end, the applicants have no public representation in which to respond.

The Medical Centre has been granted Planning Consent and appropriately the proposed design of the Neighbourhood Centre is consistent with that, as can be seen from the attached plan (supplied).

The applicant believes the Neighbourhood Centre is completely justified on its own merit, fulfilling the requirements of the Section 106 Agreement dated 29th March 2000, in line with planning policy and will be of great benefit to the residents it serves. The provision of the same will also enable the required subsidy to enable the doctors' surgery to be developed.

Finally, the applicants would like to express their eagerness to work with the Local Authority in delivering the Neighbourhood Centre and very much hope the members are mindful to now grant approval to the Outline Application.

Planning History

The site has been reserved for the purposes of a local centre since its inception.

Responses to Consultations

The Council's Pollution Control Manager has concerns regarding the proposed hot food units being below residential properties and therefore likely to suffer from cooking odours. Concern is also expressed at the potential for noise disturbance from activities on the premises from the clientele entering and leaving the premises at unsociable hours. It is therefore recommended that the application be refused. The Contaminated Land Officer recommends a site investigation via the standard condition.

The County Highway Authority considers that the required 24 parking spaces (16 two-bed units) should be provided all together within an allotted area for the exclusive control of the flats. It suggests that Manual For Streets recommends an acceptable standard of parking and that standard is 1.5 spaces per flat. Although it states that the scheme, which shows some parking shared with the public car park adjacent, is not acceptable, it concedes that a refusal for such reason would not be likely to be successful at appeal. It also confirms that a diversion order is necessary for the route of the public footpath.

Comments of the County Highway Authority were reported verbally to the last committee regarding the lack of identification of allocated parking for the exclusive use of the flats (but not amounting to a reason for refusal) and the requirement for the delivery of a diverted route for the public footpath crossing the site (as shown on the submitted drawings). The concerns of the Police Crime Prevention Design Advisor regarding the potential for neighbourhood retail centres providing conditions for anti-social behaviour were also reported.

Responses to Publicity

Three comments have been received from neighbours to the site. In addition to the comments set out in the report to 9/2007/1160, the following points are also of concern:

- The outline permission requires the 16 flats to have parking for 32 cars.
- The site should be a children's play area
- The main access should be off the main road or the existing island
- The use of bright neon signs should not be permitted as they may cause a nuisance to residents.

Additional comments from neighbours regarding the sufficiency of similar developments in the area, the propensity for anti-social behaviour to occur, additional traffic and noise, the lack of local play areas, the lack of sufficient parking, the loss of trees and lack of trees proposed for the Brunel Way frontage, and general loss of amenity to neighbours.

Development Plan Policies

The relevant policies are:

RSS8: 2, 3, 4 and 5.

Local Plan: Saved Shopping Policy 3 and Housing Policy14.

Planning Considerations

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

- The principle of the development with regard to local and national policy
- Residential amenity
- Design and layout
- Access and highway safety

Planning Assessment

The site was safeguarded for local facilities at the outline permission stage. Its use is therefore well known and established under that permission and therefore in terms of the principle of the development this is not an issue.

With regard to comments from the Council's Pollution Control Manager regarding residential amenity, there are other important issues that need to be weighed against those comments. From the beginning it was always envisaged that a local centre would be built on the site. It must be expected that in order to attract a convenience store of reasonable size, a hot food takeaway is normally required. Indeed this is a common feature of such developments across the country. Whilst the Pollution Control Manager's comments are understood, it is considered that a local centre would probably not be viable unless it operates into the evening. It would appear that this may be the case with or without a hot food unit and therefore the situation would be the same and in addition, no adverse comments have been received from the Crime Prevention Officer. It is not considered reasonable therefore to withhold permission for this reason. Equally, provided adequate safeguards are employed in the detailed design of the building to avoid the impacts of cooking smells, the future occupiers of the apartments should not be unduly affected. It is early enough in the design process to ensure that this is achieved and a condition attached to this permission should guarantee this. For information, the developers (the applicants) acting for the local GP practice have also made it clear that the scheme is only viable if both this and the application for the medical centre are successful (although this on its own should not affect the members' decision).

With regard to the design, it should be noted that although illustrations have been submitted, the final design is not for consideration here. However, the purpose of the illustrations is to demonstrate how the scheme would work. Although negotiations have been difficult, the amended details now show that a development on the site alongside the proposed medical centre is broadly acceptable. The finer detail would be agreed at the reserved matters stage.

Comments regarding access and parking mainly revolve around the impact on existing residents and whether sufficient parking would be available for the development as a whole. Given that the site for a local centre is fixed, it is not readily apparent how access could otherwise have been designed and from this point of view the Highway Authority finds no fault. It is considered that the latest advice about parking provision would not support the provision of any further parking on the site. The scheme currently shows a total of 90 spaces. Given that the development is designed as a centre primarily to serve the local community, requiring any more spaces would seem inappropriate and contrary to the principle of encouraging local access other than by car.

The site is a part of the original area granted permission in 2000 which included a comprehensive Section 106 agreement to provide (inter alia) for a primary school and public open space elsewhere, further contributions for this scheme therefore are not required.

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 external 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. 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.
4. 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.

5. 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.

6. No development shall take place until a scheme indicating provision to be made for access 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.

7. 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.

8. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 525-105a and 525-107a.

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

9. Notwithstanding the submitted details, a scheme for delivery times and opening hours of all the retail units hereby permitted shall be submitted to and approved in writing by the Local planning Authority prior to the first use of the unit to which it relates. Thereafter the scheme shall be observed in full unless any approval has been granted by the Local Planning Authority to any variation.

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

10. Prior to the first use of the site hereby permitted, details of a fume extraction system (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 areas shown on the approved plan no for the parking and manoeuvring of vehicles shall be laid out, hard surfaced in a solid bound material (i.e. not loose chippings) and marked out prior to the first use of the development hereby permitted. Thereafter those areas shall remain unobstructed for their designated use.

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

13. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

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. Notwithstanding the submitted details, details of footpath access from Brunel Way shall be submitted to and approved in writing prior to the commencement of the development. The scheme shall be implemented in full prior to the first use of the development.

Reason: To ensure that satisfactory pedestrian access is available.

17. Notwithstanding the submitted details, details of any retaining walls to be erected on the site shall be submitted to and approved in writing prior to the commencement of the development. Only those retaining wall approved shall be constructed on the site thereafter unless approval has been given for any variation.

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

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

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

19. 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.

20. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

21. Notwithstanding the submitted details, a scheme showing a footpath route across the site shall be provided in lieu of the current route of the public footpath for approval in writing by the Local planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the site.

Reason: In the interests of highway safety and so that a route across the site is not lost.

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.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks 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.

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.

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.

To take notice of the requirements of Sections 4, 7, 8A of the Chronically Sick and Disabled Persons Act 1970, (as amended by the Disabled Persons Act, 1981) and to the Code of Practice BS 5810:1979 with respect to the means of access, sign posting and provision of toilet and parking facilities specified therein.

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

Item **1.2**

Reg. No. **9/2007/1402/MR**

Applicant:

Richmond Care Villages Holdings Ltd
Bedworth
Warwickshire
CV12 0PB

Agent:

Bradbeer Planning Limited
Lypiatt Green
Nether Lypiatt
Stroud
Gloucestershire
GL6 7LS

Proposal: **Demolition of existing buildings and erection of a continuing care retirement community (class C2) comprising 60 care bedrooms, 75 care suites and 140 care apartments Aston Hall Hospital Maple Drive Aston on Trent Derby**

Ward: **Aston**

Valid Date: **10/01/2008**

Reason for Committee determination

This is a major application and more than two letters of objection have been received.-

Site Description

The site is part of the former Aston Hall Hospital, the majority of which was re-developed for residential purposes at the end of the last century. The subject site remained in use for hospital purposes until the end of 2004. The Grade II* listed Aston Hall Mansion is visible to the north across open space. Existing buildings on the site curtail views towards the open countryside. Views from the south are available from the public footpath linking Weston Road with the Trent and Mersey Canal at Weston Grange.

Long Walk Wood and Middle Wood bound the existing complex to the east and west and these largely screen the buildings from Weston Road and Shardlow Road. Concessions secured by a previous Section 106 Agreement enable public access through the woods and along the southern periphery of the hospital, along with use of the now disused playing fields.

Vehicular access to the hospital from Weston Road is gained via Willow Park Way and Maple Drive.

The lawful use of the site falls within Class C2 of the Town and Country Planning (Use Classes) Order, being a residential institution.

The existing buildings produce a footprint of about 5300 sq m, with an overall current floorspace of about 7300 sq m. Some of the buildings are of substantial construction, in brick with plain clay tile roofs, whilst others are more utilitarian in design and materials. Included within the group are a meeting room/theatre and a hydrotherapy pool. The site has not been used for several years and is now showing signs of vandalism and dereliction.

The application site lies within Weston on Trent Parish, but part of the highway network serving the site lies in Aston on Trent.

Proposal

The application seeks to demolish the existing buildings in their entirety. A new purpose-built complex would be built to replace it. This would comprise buildings of three distinct types.

The main building (3 storey) would contain 74 care suites, 30 care bedrooms, 30 special care bedrooms, 5 staff bedrooms and associated communal facilities such as dining rooms, treatment and consulting rooms, laundry, day rooms, kitchen and storage rooms. In addition the building would include rooms for the provision of day to day services, including a café, restaurant, craft and activity rooms, IT room, library, hairdressers and therapy salon. This building would also contain offices and staff facilities.

A separate building (single storey) adjacent to the main care building would provide a wellness spa, with swimming pool, hydrotherapy pool, gymnasium, sauna and steam rooms, studio and treatment rooms along with associated ancillary facilities.

The third main element of the scheme would be 140 care apartments. In the main these would be 2-storey buildings, with a few 3-storey units at selected 'landmark' locations along the main open space.

The built parts of the site would be punctuated with landscaped open spaces, courtyards and pockets of car parking. A large area of open space would bisect the site, laid out as parkland, connecting visually with the open land to the south of Aston Hall Mansion and the open fields in the direction of Weston on Trent.

The application proposes to facilitate increased public access through the site by way of concessionary paths. A scheme for public access to communal facilities would also be prepared. The existing playing field would be lost to the development but the applicant proposes to compensate for this by way of payment for replacement facilities in Weston on Trent, consistent with the extant outline permission (see Planning History). These benefits would be secured through a unilateral undertaking.

Occupiers of the development would be either:

- a) Registered disabled; or
- b) In need of regular care or support; or
- c) Be a spouse, cohabitee or dependent living with such persons; or
- d) Be engaged to provide services for any person living on the site falling within the above categories (i.e. key staff).

Applicant's Supporting Information

The applicant has supplied comprehensive planning and technical reports relating to:

- Planning Statement
- Operational Plan.
- Design and Access Statement, incorporating Landscape Statement.
- Wildlife Survey.
- Care Accommodation Supply & Demand Study
- Travel Plan.
- Ground Conditions Study
- Flood Risk Assessment
- Archaeological Evaluation.
- Public Opinion Survey.

The planning issues are summarised by the applicant as follows:

General

- The applicant company has considerable expertise and an established track record in delivering and managing successful care communities.
- Prior to submitting the application the applicant has engaged in extensive pre-application dialogue with Council officers and the local community.
- Public response indicated support by 96% of respondents, 74% being outright support and a further 22% supporting the proposals with suggestions.
- A supply and demand study of the area demonstrates a demand for 1600 residential beds in the next 10 years with a potential shortfall of about 750 residential beds.
- The concept of 'Extra Care Housing' has arisen in recent years as a means of responding to the rising need for flexible care accommodation. The applicant is keen to reduce reliance on the private car and sets out a range of initiatives, including dedicated mini-buses for residents and staff, in order to achieve this.
- The development would create some 125 full-time equivalent jobs. These would be varied, offering full and part-time opportunities, embracing nursing care, housekeeping, administration, catering, driving, and building and grounds maintenance staff.
- The applicant's ethos is to forge community links, and local clubs and societies would be encouraged to make use of meeting rooms and older members of the local community could enjoy many of the social activities and events.

The Proposed Use

- The proposed Class C2 use, providing residential accommodation and care to people in need of care, would assist in meeting a local need that has reducing supply.
- The proposal would match the existing lawful use of the site and is a similar land use to the 'fallback' Class C2 scheme permitted in 2006.
- Use of the site for C2 purposes would be controlled by a unilateral undertaking.
- The proposed use is thus not contentious.

Sustainability Objectives

- Aston on Trent has good facilities indicating good sustainability criteria in accordance with RSS8 Policy 3 and established by the 'fallback' permission.
- There would be no harmful effects on highway safety, or unacceptable levels of traffic. Furthermore the scheme is well placed to initiate a range of measures designed to limit car usage amongst residents and staff.
- The environmental assets of the site would be enhanced through a long-term landscape management plan.
- The sustainability objectives set out in RSS8 Policies 3 and 4 and PPG13 would be met.

Townscape and Landscape

- The proposal aims to restore a visual connection between the Grade II* listed Aston Hall and its former landscape to the south, by dividing the built development with a corridor of open landscape. This would be managed as parkland, with low-rise village-character buildings fronting directly onto it.
- The landscape objective is to create an integrated landscape and a garden design that properly reflects and complements the architectural proposals, the use by elderly residents and the wider rural setting. The grounds would be managed communally, for shared use and, in part, public use. Local distinctiveness would be reinforced through sympathetic siting, massing, architectural design and detailing.
- The scheme demonstrates a design led approach that respects local natural, historic and built character with enhancements including, the creation of a landscaped corridor, a parkland communal open space of biodiversity and amenity value, a landscape and arboricultural management programme, comprehensive landscape maintenance of the whole site, and managed public access across parts of the site.
- The proposal thus accords with RSS8 Policy 4 along with national guidance in PPS1 and PPG15.

Other Material Considerations

- The Archaeological Assessment demonstrates compliance with Local Plan Policy EV14
- The Flood Risk Assessment demonstrates compliance with PPS25
- The Wildlife Survey demonstrates that the proposal would not prejudice protected species.
- The Ground Conditions Survey indicates that there are no significant constraints in terms of ground, ground water and potential contamination conditions.

Planning History

Re-development of the remainder of Aston Hall was allowed in the mid-1990's. The application site first became developed as an hospital in the 1930's, and incremental development continued into the 1990's. Notable buildings include an assembly hall and a hydrotherapy pool; the latter built towards the end of the last decade. Outline permission to redevelop the subject site for an assisted living scheme was permitted in 2006 (9/2006/0625/M), comprising a maximum 13,000 sq m of Class C2 floorspace and 70 assisted living accommodation units. That permission would have involved development of the existing playing field at the site, and provided for a payment of £30,000 towards replacement recreation facilities in Weston on Trent. An undertaking was also made to

facilitate discussion between the applicant and the community to identify facilities that could be made available to the village population.

Responses to Consultations

Aston on Trent Parish Council supports the proposals subject to the following matters:

- a) Although the site is in Weston on Trent parish, Aston on Trent would bear the brunt of disruption during building, longer-term traffic issues, and stretching of existing facilities and services. Aston would not benefit financially from the development. The new residents would look to Aston on Trent Parish Council with their problems.
- b) There would be traffic problems in Willow Park Way and other traffic issues in the village, which were clearly identified in the Village Plan.
- c) Since the development of the Bloor estate South Derbyshire District Council has failed to enforce the Section 106 Agreement. The bowling green is cited as an example of this. The Parish Council wishes to ensure that any Section 106 Agreement will be enforced.
- d) The Parish Council wishes to be made aware of any tree felling proposals and retain a right of veto.
- e) The site should be for C2 use only and not retirement homes. Proof of a selection policy is needed.
- f) The three-storey building could be quite imposing on neighbours, which could be contrary to planning policy.
- g) Permission should only be granted if the recommendations of the wildlife and archaeological surveys are followed. A licence from Natural England should be applied for.
- h) There is concern that aesthetic and access improvements to the woods could destroy wildlife habitats.
- i) The right for people to pass through the site should be by way of statutory access rather than permissive paths, to enable residents to continue with their accustomed unlimited access to the woods and old playing fields.
- j) Access to the development's facilities should be quantified and open.
- k) Payments to compensate for the loss of recreation facilities should be made to both parishes. A liaison group should be set up to oversee this and the access rights.

Weston Trent Parish Council objects as follows:

- a) The development would be too large. A recent survey of residents indicated strong opposition to any future development in the parish.
- b) The application does not provide details of the numbers of residents and staff. Residents alone could increase the population of Action by 40%, to the detriment of the communities of Aston and Weston.
- c) There would be strain on health and social services facilities.
- d) There would be increased strain on local highways.
- e) The development would extend into open land causing visual intrusion when viewed from Weston Grange and the canal.
- f) Thinning of the woods would make the development highly visible.
- g) The architecture would not be in keeping with the diversity displayed in the locality.
- h) The development does have some merit, by removing an eyesore and creating employment. A smaller development could thus be appropriate.

- i) A smaller development should be staged over a number of years to allow proper community integration.
- j) Maximum height should be 2-storey and buildings should not extend beyond the existing footprint.
- k) Provision should be made to address shortfalls in medical and social facilities.
- l) Guarantees should be given to enable access to facilities by local residents, at a reasonable charge.
- m) Traffic impact assessments should be undertaken.
- n) Survey and management plans for the woods should be completed before permission is granted.
- o) Paths through the woods should be made public and the woods designated as access land.
- p) The Parish Council would like to discuss the form of any Section 106 Agreement and support Aston on Trent Parish Council's request for a liaison group to look after the interests of existing parishioners.

The Environment Agency, Highway Authority, Severn Trent Water Limited, Development Control Archaeologist and Contaminated Land Officer have no objection in principle.

The Leisure Services Manager reiterates previous advice, which is that in response to the proposed loss of access to the hospital playing field there is an identified a need for a new equipped play area in Weston on Trent. This would cost in the region of £30000.

Natural England requests additional bat survey data in respect the existing trees on the development site, before permission is granted. It also recommends liaison with Derbyshire Wildlife Trust in order to safeguard non-statutory wildlife sites.

The Crime Prevention Design Adviser has expressed concerns about security and recommends measures to minimise the risk of crime.

The Environmental Protection Manager recommends general guidelines to minimise noise, smoke and dust resulting from the building operations.

Responses to Publicity

Save Aston Village Environment objects as follows:

- a) Views of the two woods would be obscured. The central parkland area should be reduced and more space provided alongside the woods.
- b) The site's wildlife habitats should be protected.
- c) The existing Section 106 Agreement relating to the woods should not be weakened. There should be no formal routes through the woods.
- d) The development to the west side of the site would suffer reduced light because of close proximity to Long Walk Wood.
- e) The access is inadequate and would increase the risk of accident.
- f) The sewerage system may be inadequate.
- g) The existing assembly hall should be retained as a valuable community facility.
- h) Use of the applicant's wellness spa would be subject to a £60 per month charge.
- i) The views of Aston on Trent Parish Council in respect the Section 106 Agreement are supported.

4 letters have been received, one raising no objection. The remainder raise the following issues:

- a) The three-storey block would result in loss of light and privacy to 56 Willow Park Way. The building should be moved at least 100 yards further away.
- b) The three-storey block would be overbearing on neighbours.
- c) There would be overlooking and loss of privacy to neighbours, in particular because balconies are proposed to the new apartments.
- d) Building operations should be controlled to avoid disruption to residents, and mud deposition the roads.

Development Plan Policies

The relevant policies are:
Regional Spatial Strategy P3, P4
Local Plan EV9 & 14 and T6

Planning Considerations

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

- The principle.
- Sustainability.
- Impact on the character and appearance of the area.
- Highway safety.
- Residential amenity.
- Archaeology
- Protected species
- Contaminated land.
- Drainage.
- Crime Prevention
- Section 106 Agreement.

Planning Assessment

The use of the existing site and buildings for C2 purposes (residential institution), as defined in the Town and Country Planning (Use Classes) Order, is lawful. In addition there is an extant outline permission to redevelop the site for such purpose. Therefore, as a matter of principle, re-development of the same kind, as is proposed, is acceptable.

By using previously developed land the proposal satisfies one of the main tests of sustainability. The provision of a development with clear job generating characteristics at the edge of a village with good local facilities is another favourable indicator in this regard. The proposal would provide modern specialist residential care. There is no evidence that the proposal would generate significantly more traffic than business re-use, which would otherwise be favoured by policy. The travel plan proposes measures to reduce the need to travel by private car. On balance the development would be in harmony with sustainable development objectives.

The proposal demonstrates a carefully considered design approach. The new buildings would reflect local distinctiveness in terms of the scale and character of the buildings, the

proposed materials and landscaping. The introduction of a central parkland would re-create a sequence of open space linking Aston Hall with the open countryside. The overall height of the main new care building would not be materially greater than the existing two-storey buildings on the site, which have high ceilings and large roofs. The care apartments set in the grounds would be lower, being designed to resemble historic estate cottages. Therefore the development would sit comfortably in its landscape context and create a high quality environment.

On the advice of the Highway Authority the local roads are capable of dealing safely with traffic generated by the development.

Given that the highways would operate within capacity there is no evidence that their use as such would be detrimental to the amenities of local residents. Residents in dwellings at the end of Willow Park Way have expressed concern over dominance, loss of light and privacy. However the main block would reduce in height to 2 ½-storey behind 56 Willow Park Way at which point it would be no nearer than 34 metres from the main windows to that property. The building would be some 40 metres away from the main rear elevations of 52 & 54 Willow Park Way. Supplementary Planning Guidance would suggest a minimum acceptable distance of about 26 metres. Elsewhere the new 2-storey buildings would be sufficiently far from, or juxtaposed so as to maintain a reasonable degree of privacy to neighbours.

An archaeological evaluation has been undertaken. The Development Control Archaeologist considers that items of interests can be preserved by record. An appropriate condition would bring this about.

The conservation status of protected species on or in the vicinity of the site would not be prejudiced by the development. A known bat roost would be lost upon demolition of Beech Lodge but mitigation measures would compensate for this. The work would need to be undertaken under licence from Natural England. Long Walk Wood is a non-statutory wildlife site and the existing Section 106 management obligations would enable Derbyshire Wildlife Trust to comment on the specific proposals for the woods. Other wildlife interests would be secured through the imposition of conditions recommended by Natural England.

The previous use of the site as a hospital may have resulted in contaminants being present on the site. The situation could be safeguarded by condition.

On the advice of Severn Trent Water Limited and the Environment Agency there would be no adverse impact on the local drainage system or flood risk interests, subject to conditions.

The objective of enabling public access to the site and woodland creates tension with the desirability of securing the site from intruders. The applicant has proposed measures to minimise the risk of crime whilst maintaining the architectural and landscape integrity of the scheme.

By setting buildings against the woodland areas development would encroach into the hospital playing field, which is available for use by parishioners for recreation purposes through the provisions of the existing Section 106 Agreement. In the circumstances the applicant's offer to contribute to new outdoor recreation facilities in Weston on Trent, as recommended by the Leisure Services Manager, would be adequate compensation.

Existing concessionary paths and access to woodland would be preserved and enhanced by the provision of a route through the open area of the site. These benefits would be secured through a Unilateral Undertaking under Section 106 of the Town and Country Planning Act. The applicant has volunteered community access to some of the facilities of the development, which would similarly be secured through the undertaking. The existing Section 106 Agreement already requires appropriate maintenance of Long Walk Wood and Middle Wood. Following the rundown and closure of the hospital the woodland has been neglected for some years. The applicant has stated that appropriate management, including enhancement of the biodiversity value of the woodland, would be undertaken as part of the grounds maintenance regime.

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

Recommendation

Subject to the applicant providing a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 to secure occupation by people in need of care, a scheme for public access to key communal facilities, public access to permissive paths through the development, and the payment of £30,000 towards the provision of local outdoor recreational facilities in Weston on Trent; **GRANT** permission subject to the following conditions:

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

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

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 1069/L/2 Rev C received 15 February 2008.

Reason: For the avoidance of doubt.

3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority.

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

4. Large scale drawings to a minimum Scale of 1:10 of balconies, eaves and verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The balconies, eaves and verges and external joinery shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

5. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.

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

6. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflight shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

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

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

8. Gutters and downpipes shall have a black finish.

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

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. Pointing of the buildings, wherever applicable, shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".

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

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

Reason: In the interests of the appearance of the buildings and the locality generally.

12. No development shall take place until details, and if necessary samples, of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the buildings and the locality generally.

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

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

14. 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.

15. A landscape management plan, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority before development begins. The landscape management plan shall be implemented as approved.

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

16. Before the development is first occupied details of a scheme for all external lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved scheme.

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

17. 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) If required by the conceptual site model, 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.

18. 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.

19. 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.

20. The details required pursuant to Condition 19 above shall include a scheme for the provision and implementation of surface water run-off limitation. The scheme shall not result in an increase in the rate of surface water discharge to the local land drainage system and the drainage works shall be completed in accordance with the details and a timetable to be agreed as part of the scheme.

Reason: In the interests of flood protection.

21. 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 trapped gullies, designed and constructed to have a capacity and details compatible with the site being drained.

Reason: In the interests of pollution control.

22. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.

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

23. Before development begins a scheme for monitoring and review of the submitted Travel Plan shall be submitted to and approved in writing by the local Planning Authority. The Travel Plan shall be implemented on first occupation of the development and shall be applied thereafter; and copies of the monitoring exercises shall be supplied to the Local Planning Authority every 12 months thereafter, unless as may be otherwise be agreed in writing with the Local Planning Authority.

Reason: In the interests of sustainability.

24. Before development begins details of a scheme for the provision and maintenance of a 30m exclusion zone around the badger sett in Middle Wood, including measures to prevent access by site personnel, and measures to prevent badgers

from falling into excavated trenches and holes, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall remain in place for the duration the development.

Reason: To protect the wildlife interests.

25. Prior to the commencement of development, a programme of further ecological surveys of bats, badgers and water voles shall be submitted to and approved by the Local Planning Authority. The further surveys shall be carried out in accordance with the approved programme.

Reason: To establish the status of badgers in the area and to ensure that an offence is not committed under The Protection of Badgers Act 1992

26. Before development begins details of scheme to prevent access to Long Walk Wood and Middle Wood by construction traffic and the use of the woods for the storage of materials and/or equipment shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and retained for the duration of building operations.

Reason: To protect the ecological and amenity value of the woodland.

27. Before development begins a scheme of mitigation in order to minimise the likely impact on bats shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be incorporated and implemented in the development

Reason: To ensure adequate protection of the species.

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.

To note the attached comments of Natural England.

Site operators should ensure that no contaminated water enters and pollutes surface or underground waters.

To note the attached advice of the Pollution Control Officer, which are designed to minimise disturbance to residents during the construction phase.

Item **1.3**

Reg. No. **9/2007/1439/F**

Applicant:
Wheatcroft Construction Co Ltd
Swadlincote
Derbyshire

Agent:
Peter Diffey & Associates
Cotesbach Villa
Woods Lane
Stapenhill
Burton On Trent
Staffordshire
DE15 9DB

Proposal: **The demolition of the existing dwelling and the erection of three dwellings at 25 Clifton Road Netherseal Swadlincote**

Ward: **Seales**

Valid Date: **11/12/2007**

Reason for committee determination

Councillor Bale has requested that the application is brought before committee because local concern has been raised about a particular issue.

Site Description

The site is brownfield land located within the village of Netherseal and currently houses a detached bungalow and surrounding garden. To the east of the site is a listed Baptist Church and adjoining graveyard. To the west of the site are bungalows and to the north and south of the site are two-storey dwellings in a variety of styles.

Proposal

The scheme proposes the construction of a terrace of three two-storey dwellings with integral garages and additional parking spaces.

Applicants' supporting information

Design statement: The site is a detached bungalow set in a large garden. The site is located close to the centre of the village to the left of the site is a chapel and to the right are bungalows. Clifton Road is fronted by a variety of house types ranging from terraced houses to later 20th century detached dwellings.

Netherseal is a medium sized village with all main services, public transport, a shop/post office, public houses, churches, a primary school and community facilities.

9/2007/1439/F 25 Clifton Road
Netherseal

Netherseal

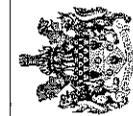
Campville
Cottage

Pond

74.1m
The
Smallholding



3900



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SWADLINCOTE DE11 0AH

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Date Plotted 22/2/2008
Scale 1:1500

Licence No LA 079375

It is a sustainable village and the site is previously developed land.

The proposal meets the general requirements relating to space about dwellings as identified in the SPG. The design takes into account the site's village location and traditional house styles in the area. It meets the design requirements of the Local plan, PPS3 and PPS1. The development has a density in line with PPS3 advice and the scheme makes best use of a brownfield site. It complies with housing policy 5 of the Local Plan.

Amount: It is proposed that the existing bungalow be replaced by 3 2-storey dwellings set slightly back from Clifton Road. The set back varies and the development is designed to introduce enclosure to this part of the street closing off views from hunts Lane opposite.

Layout: The three dwellings face onto Clifton Road. The terraced development provided 2 x 3-bedroom dwellings and 1 x 4-bedroom dwelling. All 3 have integral garaging. The dwellings are provided with relatively extensive rear gardens with garden depths varying from 11-14m. All 3 gardens have access via side and rear footpath from Clifton road allowing direct access for garden requirements. The layout is designed to ensure no loss of light or amenity to neighbouring properties.

Scale and height of building: The site slopes causing a significant levels difference between the three dwellings. This is reflected in changing levels for window openings. Roof heights vary considerably. Frontage eaves heights vary from 3.5m to 4.5m above dpc level. When seen from the front the ridge height is generally 2.75m above eaves height.

Landscaping: Enclosure is created both through built form and by hedging to the front of the site. The front gardens are relatively small. A landscaping condition can require planting in the rear gardens.

Appearance: The scheme introduces a varying building line, gables, small single storey front extensions and a variety of eaves heights and building styles to the street frontage. Various "cottage" characteristics are incorporated. Gable form generally reflects the relatively narrow gable depth found on older buildings allowing the formation of a steep roof pitch, but low ridge height to the dwellings.

Access: Access to Clifton Road is available to both the front and rear of the dwellings. All village facilities are within a short walk of the proposed development. The dwellings are each provided with 2 parking spaces, which meets standards. Clifton Road has good access from Main Street and the surrounding area. The road itself is lightly trafficked and the new development has no adverse safety implications on the use of the road. Traffic generated from the site similarly will have no adverse impact on the surrounding road network.

Planning History

No relevant history.

Responses to Consultations

Netherseal Parish Council considers that the building is too large and imposing for the size of the plot and that the aspect is currently open with bungalows to one side of the site and the Baptist Church set back from the road on the other. Bungalows would be more in

keeping. The Parish Council has concerns over the proposed building being built on the boundary with the church and disturbance to graves during construction and in the future. Parking problems exist in the area and this will get worse with the addition of more houses.

The Highway Authority has no objections subject to conditions.

The Design and Conservation Officer has no objections following minor design alterations which have been made to the scheme.

Responses to Publicity

Eleven letters of representation have been received raising concerns over disturbance to graves both during construction and in the future and the fact that additional on road car parking will occur in an area where there are existing problems.

Two of the letters are from the adjoining Baptist Church and although the plans have been amended so that the houses have been moved 600mm from the boundary they still have the following concerns:-

- the soil in the area is sandy and therefore it is a concern that the graves may collapse during construction
- scaffolding could not be placed in the graveyard as it is both inappropriate and would limit the digging of urgent new graves. 600mm is not sufficient to allow the erection of scaffolding and allow access to and around it
- sufficient space should be left within the site to allow future maintenance of the building
- a suitable replacement boundary treatment should be provided.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policies 5 and 11, Environment Policy 13.

Planning Considerations

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

- the principle of residential development,
- the impact on the setting of the listed building,
- the design and appearance of the houses,
- highways/ parking issues
- impact on the adjoining graveyard.

Planning Assessment

The site is located within the village development boundary of Netherseal and is brownfield land. Residential development is therefore acceptable in principle in line with Housing Policy 5 of the Local Plan.

The Baptist Church, which is located to the east of the site, is a Grade II listed building. The design of the building has been amended in line with the requirements of the Design and Conservation Officer and the development is not therefore considered to have a detrimental impact on the setting of the listed building and complies with the requirements of Environment Policy 13 of the Local Plan.

The scale of the dwellings is considered acceptable and although there are existing bungalows to the west of the site, the remaining built development surrounding the site is two-storey. It is therefore considered that two-storey dwellings on this site will not be detrimental to the street scene. The design of the development is such that the terrace of three dwellings has been broken up with elements which project forward and other elements which are set back. The scheme would not therefore appear as one large, single block of development. The scheme complies with the space about dwellings standards (SPG) with respect to recommended distances to neighbouring dwellings.

With regard to highway safety, the County Highway Authority has not objected to the application and each of the plots is to be provided with two parking spaces, which complies with the Council's parking requirements.

On the final and probably the most sensitive issue, potential disturbance to the graves on the adjoining site is not a planning issue. The most recent graves have been dug in close proximity to the side boundary of the application site. However, it is understood that civil law requires that the developer has a duty of care not to disturb the adjoining land. In response to the concerns expressed, the scheme has been amended so that the edge of the new building would now be 600mm from the boundary rather than on the boundary; (600mm is understood to be the minimum safety width for scaffolding). The issue of disturbance to graves is however a sensitive one and much concern has been raised in connection with this. By moving the dwellings away from the boundary the Applicant has attempted to allay these concerns. However the members of the Baptist Church have also expressed concerns that access may be required over the graveyard during construction (bearing in mind the gap is the minimum width for scaffolding) and for future maintenance of the dwellings, which they state would be inappropriate in the circumstances.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. c854/2 and 3 as received on 30 January 2008.

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

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

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

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority large scale detailed drawings including sections of the 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.

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

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

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

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

7. Prior to any other works commencing (excluding demolition of the existing dwelling and site clearance) the new accesses shall be formed with Clifton Road. Each access (including the existing access) shall have a minimum width of 3.2m, be surfaced in a solid bound material and provided with measures to ensure that surface water does not flow from within the site onto the footway.

Reason: In the interests of highway safety.

8. Prior to the occupation of the first dwelling, the entire site frontage shall be cleared, and maintained in perpetuity clear, of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge in order to maximise visibility available to drivers emerging from within the site onto the footway.

Reason: In the interests of highway safety.

9. Prior to the occupation of the first dwelling, space shall be provided within each plot curtilage for the parking of two vehicles (each space measuring at least 2.5m x 5.0m) and maintained thereafter free of any impediment to its designated use.

Reason: To ensure that adequate parking/garaging provision is available.

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

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

11. Large scale drawings to a minimum Scale of 1:10 of eaves, verges, external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local

Planning Authority before building work starts. The external joinery and associated details shall be constructed in accordance with the approved drawings

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

12. Notwithstanding any details submitted the rooflight on the front elevation shall be omitted.

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

13. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the building(s) and the character of the area.

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

Reason: In the interests of the appearance of the building(s) and the character of the area.

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

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

16. A sample panel of pointed brickwork/stonework 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the appearance of the building(s) and the locality generally.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwellings hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwellings and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

Informatives:

Please contact Derbyshire County Council's Environmental Services Department (01629) 580000 extension 7595 giving at least six weeks notice prior to commencing any work within the existing highway.

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.

Item **1.4**

Reg. No. **9/2007/1443/M**

Applicant:

Stenson Waterside Park Ltd
Stenson
Derby
DE73 1HL

Agent:

Philip Billham Planning & Design
Old School Lodge
Aston On Trent
Derbyshire
DE72 2AF

Proposal: **The relocation of the existing workshop, the erection of an apartment block for holiday lets, the erection of demountable timber cabins, the provision of hard standings for touring caravans together with the erection of an office/store/shower facility and associated works at Stenson Marina Derby Road Stenson Derby**

Ward: **Stenson**

Valid Date: **11/12/2007**

Reason for committee determination

Councillor Shepherd has requested consideration by Committee because local concern has been raised about a particular issue and he feels that it would be useful for members to view the setting in which the application is located.

Site Description

The site is located 1km to south of Wragley Way, which defines the urban edge of Derby. It is connected to Wragley Way by a hard surfaced footway.

The existing marina site is part of a complex of buildings and land comprising boat building, leisure, public house and industrial businesses. The marina enterprise includes maintenance, repair, manufacturing and boat hire facilities. The site is located within and adjacent to the Trent and Mersey Canal Conservation Area.

In addition to the present operational site the application includes agricultural land and woodland to the west, adjacent to the north bank of the canal.

Proposal

The applicant proposes a new industrial building in lieu of an extant permission for a larger one (see Planning History below). A new chandlery to replace the unsightly buildings would be implemented by the extant permission. On the site of the previously approved office building the applicant would build a block of 12 holiday apartments. The size,

external design and appearance of these would be the same as the office block approval. Within the agricultural land the applicant proposes to locate 20 timber holiday cabins and a touring caravan site with 30 pitches, along with associated roads, amenities and a play area.

Applicants' supporting information

- a) The marina has been operated for the last twenty years as a family run business. The tourism facilities would be used all year round and would bring economic benefits to the area as well as providing continuity of employment for existing staff and creating new jobs. The existing boat building business faces severe competition from subsidised industries in EU ascension states. The diversified business would enable a manufacturing presence of appropriate scale to be maintained on site.
- b) The site is located close to the city and to the main trunk roads, providing easy communication with other regional attractions.
- c) The cabin and caravan site is effectively screened from public view.
- d) The proposed workshop would be smaller than as previously approved under 9/2005/0086/M, and would facilitate removal of the existing workshop.
- e) The apartment scheme would appear no different to the office building previously permitted.
- f) The holiday cabins would be low profile and demountable, with additional landscaping incorporated in their layout and that of the proposed adjacent touring caravan site.
- g) East Midland Development Agency has offered a grant towards the development costs under the Waterways Regeneration Fund, designed to provide more recreation and leisure facilities on sites which are currently underused. The scheme attracted particular attention based upon providing a local amenity to the urban area SW of Derby. The project also received support for the innovative new workshop/visitor attraction which it is hoped will compete in the manufacture of inland boats as well as providing training and craft skill employment for future industry requirements.
- h) An agreement has been reached with British Waterways for the applicant to fabricate a new pedestrian bridge adjacent to Stenson Lock and to re-paint the lock.

Planning History

Planning permission was granted for a workshop (larger than as now proposed), chandlery and offices in 2005 (9/2005/0086/M).

Responses to Consultations

The County Highway Authority, Environment Agency, Design and Conservation Officer, Development Control Archaeologist and Contaminated Land Officer have no objection in principle.

British Waterways considers that the development would increase use of its facilities and seeks a contribution towards their enhancement.

Responses to Publicity

One objection has been received on the basis that good agricultural land would be lost to a use that could be accommodated on brownfield land.

Development Plan Policies

The relevant policies are:

RSS8 Policies 1, 2, 24, 25, 27 & 31

Saved Derby and Derbyshire Structure Plan Policy L&T2

Saved South Derbyshire Local Plan Environment Policies 1, 9 & 12, Employment Policy 4, Recreation and Tourism Policies 1 & 10 and Transport Policy 6

Planning Considerations

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

- The principle
- Fallback position
- Residential amenity
- Highway safety and the local network
- Impact on the landscape and visual amenity
- Impact on the Trent and Mersey Canal Conservation Area
- Drainage
- Contaminated land
- Cultural heritage (archaeology)

Planning Assessment

Environment Policy 1 favours new development outside settlements only if it is essential to a rural based activity, unavoidable in the countryside and protective of the character of the countryside. More specifically the principle of the location of recreation facilities is dealt with under the saved Local Plan Recreation and Tourism Policy 1. This seeks to ensure that facilities do not cause disturbance to local amenity by reason of noise or traffic generation, have adequate access, parking, servicing, screening and landscaping; and are of an appropriate scale and design well integrated into their surroundings (the saved Leisure and Tourism Policy 2 in the Structure Plan contains similar criteria).

PPS7 seeks to locate new tourism accommodation in settlements, although it also favours such accommodation in rural areas where this would accord with sustainable development objectives. The marina is a clear economic and recreational focal point, already built up, on what is otherwise a predominantly rural and undeveloped canal in South Derbyshire. It is also close to the expanding area of Derby and within a small settlement. There is thus a logical sustainability argument to focus tourism-based development on this site.

PPS7 also advises that local planning authorities should allow appropriate facilities needed to enhance visitors' enjoyment, and/or improve the financial viability, of a particular countryside feature or attraction. The proposal seeks to diversify and consolidate an established business, which has clear connection with the adjacent canal, in particular the canal basin. It is likely that visitors would also make use of the adjacent public

house/restaurant thus adding to its sustainability. As such the development is in harmony with the prevailing policies and the principle is thus acceptable.

The chalets and the apartments are residential by design. Most demand for non-serviced tourist accommodation occurs in rural areas, where housing is not normally permissible. Where permission is granted for dwelling units on the basis of tourism there is widespread use of conditions to control occupancy. An application to remove such conditions would be tantamount to a new permanent dwelling, and normal housing policies would be applicable.

In the event of the failure of the Stenson Marina business the site could be developed for offices and B2 industry without further recourse to the LPA.

Whilst Stenson contains a number of existing dwellings the proposals are set well away from them. Having regard to the extent of current activity at the site any consequent increase in the number of visitors to the site is unlikely to generate noticeable disturbance to residents.

On the advice of the County Highway Authority the development would have minimal impact on the local road network and not result in conflict with highway safety interests.

The open land that would accommodate the timber holiday cabins and the touring caravans is separated from the canal by an existing belt of woodland. There are limited views from other public vantage points, notably the bridleway over the canal bridge at the western end of the site. Additional landscaping could be incorporated to help ensure adequate screening to this part of the site. Views across the canal basin, towards the land, would be filtered by moored boats in the foreground.

That part of the scheme within the confine of the existing marina would result in little visual change to the development permitted under 9/2005/0084/M. The main improvement to the appearance of the conservation area would be the removal of the unsightly buildings used in conjunction with the existing business which currently have a negative impact. However, the character of the conservation area benefits from the variety of commercial activity focused on the canal basin. The development would help to enable this business presence to be sustained.

Subject to conditions recommended by the Environment Agency the site would be adequately drained.

There may be contaminants in the land. This issue could be safeguarded by condition.

On the advice of the Development Control Archaeologist the site could contain items of archaeological interest. An appropriate condition would ensure that this interest is protected.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. MCC/5 Rev A and MCC/6 recived 23 January 2007.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
Reason: In the interests of the appearance of the area.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: In the interests of the appearance of the area.
5. A landscape management plan which shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.
Reason: In the interests of the appearance of the area.
6. No development shall commence until a scheme for phasing of the development has been submitted to and agreed in writing by the Local Planning Authority. In particular the scheme for phasing shall set out a timetable for the removal of the existing workshop, chandlery and toilet buildings and proposal for the restoration of the residual land. The development shall be carried out in accordance with the approved scheme.
Reason: To ensure that the character and appearance of the conservation area is preserved.
7. 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 re-enacting that Order), the holiday cabins and apartments 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. The holiday cabins shall not be occupied by any individual or groups of persons for a total period exceeding 28 days in any calendar year and the holiday apartments shall not be occupied by any

individual or groups of persons for a total period exceeding 56 days in any calendar year. The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the Local Planning Authority at any time and a copy of the register shall be supplied to the Local Planning Authority at the end of each calendar year.

Reason: The Local Planning Authority is only prepared to grant permission for holiday accommodation because another dwellinghouse in this location would be contrary to the development plan and the objectives of sustainable development.

8. No development of any phase shall take place until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved, unless otherwise agreed in writing by the Local Planning Authority. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration.

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

9. The car parking and manoeuvring facilities required pursuant to condition 8 above shall be provided in advance of the first use of the phase of development to which they relate and shall be retained as such thereafter.

Reason: In the interests of highway safety.

10. 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.

11. 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.

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

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

13. Chemical toilet waste shall not be discharged to any sewage treatment plant provided for the site.

Reason: In the interests of pollution control.

14. Any tanks for the storage of oils, fuels or chemicals, hereby approved, shall be sited on impervious bases and surrounded by impervious walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks plus 10%. All filling points, vents or gauges and site glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and be protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge downwards into the bund.

Reason: In the interests of pollution control.

15. 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 trapped gullies with an overall capacity compatible with the site being drained.

Reason: In the interests of pollution control.

16. Large scale drawings to a minimum scale of 1:10 of eaves, verges, window grilles, external joinery, doors and windows, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. These shall all be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

17. In respect of the holiday apartments pointing of the proposed buildings shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".
Reason: In the interests of the appearance of the buildings.
18. In respect of the holiday apartments a sample panel of pointed brickwork/stonework 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.
Reason: In the interests of the appearance of the buildings and the locality generally.
19. In respect of the holiday apartments all plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
Reason: In the interests of the appearance of the buildings and the character of the area.
20. In respect of the holiday apartments gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
Reason: In the interests of the appearance of the buildings, and the character of the area.
21. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.
Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.
22. The caravan site shall be used for touring caravans only and in particular no caravan shall remain on the site for more than for a total period exceeding 28 days in any calendar year. The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the Local Planning Authority at any time and a copy of the register shall be supplied to the Local Planning Authority at the end of each calendar year.
The Local Planning Authority is only prepared to grant permission for touring caravans because permanent siting and/or caravan storage in this location would be contrary to the development plan and the objectives of sustainable development.
23. No development shall take place until the applicant has submitted to and had approved by the Local Planning Authority a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 to secure the fabrication of, and supply to British Waterways of a new footbridge and the re-painting of Stenson Lock.

Reason: The development would increase impact on British Waterways facilities in the immediate vicinity of the application site and the specified works are necessary to compensate for the impact of such additional usage.

24. 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, and in the case of the holiday cabins the external decorative finish to timber cladding, have been submitted to and approved in writing by the Local Planning Authority.

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

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.

To note the attached requirements set out in the Environment Agency's letter dated 31 December 2007.

In order to comply with site licence requirements caravans and cabins will need to be at least 6 metres apart.

With regard to Condition 6 the Local Planning Authority expects the buildings annotated 'buildings to be demolished' to be so demolished and the resultant materials removed from the site, in advance of the construction of the holiday cabins.

04/03/2008

Item 1.5

Reg. No. 9/2007/1453/U

Applicant:
Mr D Kana
23 Salisbury Drive
Midway
Swadlincote
Derbyshire
DE117LD

Agent:
Mr D McCabe
7 Nene Way
Hilton
Derbyshire
DE65 5HX

Proposal: The partitioning off of the existing retail store to form a hot food takeaway (change of use from class A1 to class A5) at 23 Salisbury Drive Midway Swadlincote

Ward: Hartshorne/Ticknall

Valid Date: 07/01/2008

Reason for committee determination

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

Site Description

The application site is situated within a residential area and comprises of the extended part of the ground floor of a convenience store with residential accommodation above. The neighbouring property, No 21 Salisbury Drive is a Chinese take away. There is a separate car park to the side of the site and a small parking area to the front of the shops with playing fields to the rear. Residential properties are situated directly opposite and to the side of the car park and Chinese takeaway.

Proposal

The application proposes to partition off the extended part of the retail store to form a hot food takeaway. The applicant has indicated in the submitted documentation that informal discussions with local residents have suggested a fish bar would be the most suitable use.

Applicants' supporting information

The applicants supporting information is summarised as follows:

The owner extended the convenience store in 2005 in an attempt to grow the business and improve the facility for the local community. This venture has proved unsuccessful



 South Derbyshire District Council Civic Offices Civic Way Swadlincote DE11 0AH	9/2007/1453/U 23 Salisbury Drive Midway	Date Plotted 22/2/2008	NORTH ↑	
	Crown Copyright. All rights reserved. South Derbyshire District Council OS Licence No. LA 100019461. 2006	Plot centred at 431103 320399	Scale 1:1500	

with little improvement in business and a high increase in rates and overheads. Failure to address the situation could see the closure of the store and loss of a local amenity.

Informal discussions with local residents have indicated that a fish bar would be welcomed by the local community and is a use not catered for in the immediate area.

There is adequate off road parking and it is envisaged that most of the customers would be local with opening times restricted to reduce inconvenience to local residents.

Planning History

Planning permission was granted in 2004 for the erection of a two-storey extension to provide additional retail floor space with residential accommodation above.

Responses to Consultations

The Police Liaison Officer has commented as follows:

- The area already suffers from anti-social behaviour and this type of premises, e.g. a fish and chip shop, will attract local youths and exacerbate the existing problem for local residents.
- The application site is adjacent to a car park and play area all of which will add to the problem.
- Several incidents have been reported to the police and the concerns from the police side are that the problems will be greater.
- The ramp at the front of the building will be somewhere for young people to site on.
- If the proposal is permitted a 1.8m high fence is recommended along the boundary with the adjacent car park.

The Pollution Control Manager has no objection subject to the submission of an odour control scheme prior to the opening of the take away and a condition regarding opening hours.

The County Highway Authority has no objection.

Responses to Publicity

Four letters have been received raising the following objections:

- There is already a problem of gangs hanging around on Salisbury Drive until late at night causing anti-social behaviour, criminal activities, vandalism, excess litter and gang related noise and intimidation which may become more prevalent.
- Limited parking and a further increase in the volume of traffic, traffic noise and pollution would be detrimental to the estate and road safety.
- Within the past year, police assistance has been required to eradicate anti-social gangs from Salisbury Drive, more than 25 times.
- There are 5 fish and chip shops within approximately half a mile of this site.
- This is a residential area with restrictions on property deeds regarding businesses.
- The proposal will attract pupils from Granville School to eat unhealthily contradicting recent campaigns for healthy eating.

Development Plan Policies

The relevant policies are:
Local Plan: Shopping Policy 3.

Planning Considerations

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

- The principle
- The impact on amenity with particular regard to community safety
- Odour control.
- Highway safety and parking.

Planning Assessment

Shopping Policy 3 of the Local Plan permits proposals for small shops providing they do not adversely affect the amenities of neighbouring properties and adequate access, car parking and servicing facilities are provided. The application site is already has permitted use as a shop and therefore the proposal is acceptable in principle subject to satisfaction of the remaining criteria.

Planning Policy Statement 1: Delivering Sustainable Development and government guidance, 'Safer Places – the Planning System and Crime Prevention' (2004), advise that planning authorities should promote communities that are 'inclusive, healthy, safe and crime free' and consider the prevention of crime and enhancement of community safety with particular regard to Section 17 of the Crime and Disorder Act 1998. Therefore crime prevention and community safety are material considerations in considering this application.

Whilst the existence of anti-social behaviour issues in this location is the subject of comment from the Crime Prevention Officer, it is considered on balance that it would difficult to demonstrate how the proposed use is substantially different to the current use as a convenience store and how the proposal is more likely to further exacerbate any existing anti-social behaviour issues arising from the existing uses, car park and play area.

The application property is situated within a residential area and currently operates as a convenience store with opening hours of 0700 to 2100 hours Monday to Saturday and 08:00 hours to 14:00 hours on Sunday. The neighbouring Chinese takeaway is permitted to open between 08:00 and 23:30 hours Monday to Sunday including Bank Holidays. The current application proposes opening hours of 11:00 to 14:00 hours and 16:00 to 22:00 hours daily. Whilst the proposal would introduce increased opening hours of part of the existing store these could be controlled by condition and would not exceed those of the neighbouring take away.

The proposed alterations to extend the existing ramp and railings at the front of the store are not considered to introduce any significant change to the existing circumstances at the front of the property and indeed would improve access to the building. On the advice of the County Highway Authority there would be no undue detriment to parking or highway safety.

In view of the above considerations it is considered that it would be difficult to demonstrate significant increased harm arising from the proposal on the amenity of the local area to warrant refusal.

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.
3. Prior to the first use of the site hereby permitted, details of a fume extraction system (to include extraction rates, odour control, 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.
4. The use hereby permitted shall only be carried out between the hours of 11:00 to 14:00 hours and 16:00 and 22:00 hours Monday to Sunday including Bank Holidays.
Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

Item **1.6**

Reg. No. **9/2008/0033/FH**

Applicant:
Mr N Tomlinson
6 Main Street
Derbyshire
DE65 6AG

Agent:
Mr. Paul Day
PD ARCHITECTURE
120 Gedling Road
Arnold
Nottingham
NG5 6NW

Proposal: **The erection of a detached garage to the front of
The Haven 6 Main Street Findern Derby**

Ward: **Willington & Findern**

Valid Date: **09/01/2008**

Reason for committee determination

The application is brought before Committee at the request of Councillor Ford because local concern has been raised about a particular issue and there are unusual site circumstances, which should be considered by the Committee.

Site Description

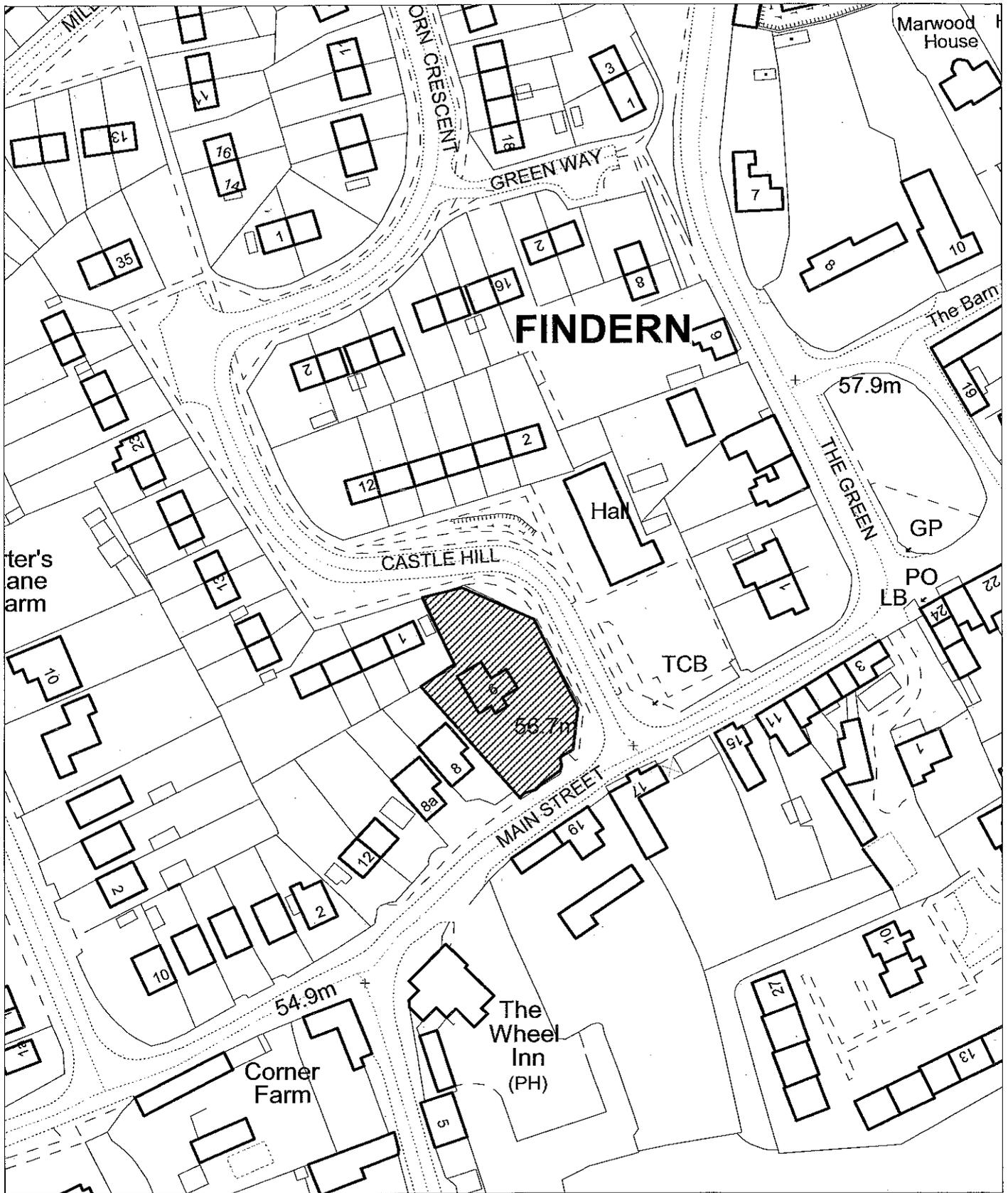
The site is the front garden area of a detached corner plot dwelling. The site is at a higher level than the adjoining dwelling at No 8 Main Street such that the garage would have its floor level at the same height as the first floor of the adjoining dwelling. All the main living accommodation for No 8 Main Street is located at first floor level and No 8 is set forward of the application dwelling, No 6 Main Street. A fence forms the boundary between the two properties. No 6 Main Street is set in a large corner plot and has separate access to both the front and rear. The site for the proposed garage is currently used as a parking area at the end of the front driveway, the remainder of the front garden is landscaped.

Proposal

The application is for a detached double garage measuring 5.8 metres by 5.5 metres and 4.9 metres to the ridge.

Planning History

9/2008/0034 for a garage at the rear of the dwelling is currently under consideration (as a potential alternative to the current scheme).



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

9/2008/0033/FH The Haven
6 Main Street
Findern

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Date Plotted 22/2/2008

NORTH ↑

Plot centred at 430737 330434

Scale 1:1250

9/2006/1095 – Erection of a bungalow at the rear – approved.
9/2006/0657 – Extension – approved and completed.
9/2002/0804 – Two storey extension and garage – approved but now lapsed (garage located to the rear of the dwelling).

Responses to Consultations

The Parish Council has no objections

Responses to Publicity

One letter of representation has been received raising concerns over the impact of the garage on No 8 Main Street on the basis that the garage is to be built up to the boundary and will be almost 3 metres in height above the window line, the position of the garage is adjacent to the front door, kitchen and dining room of the property and to the east of these windows. As a result the garage would only be 3m from the door and dining room and 1.25m from the kitchen resulting in a loss of morning light and having a negative impact on outlook from the property.

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:

- the impact of the garage on the street scene,
- the impact on the occupiers of No 8 Main Street

Planning Assessment

The proposed garage would be located at the front of the dwelling however it would be located adjacent to the side of No 8 Main Street. The garage would not therefore be viewed as an isolated prominent structure and would not have a detrimental impact on the appearance of the street scene. The garage would be of traditional design and brick and tile construction. The proposed design and appearance of the garage are therefore also considered acceptable.

The garage would be sited in close proximity to the adjoining dwelling, No 8 Main Street. The kitchen and dining room windows of No 8 adjoin the site although the main windows to these rooms face south towards Main Street; no principle windows face the application site. The garage would be located to the east of the windows and therefore the windows would still benefit from significant levels of natural light for the majority of the day. The kitchen is set back from the front of No 8 and the proposed garage would breach a 45° line drawn from the centre of this window. However the garage is only a single storey structure and the roof slopes away from the boundary. The scheme therefore complies with the provisions of Housing Policy 13 and the SPG on Extensions, which states that single storey extensions will be dealt with on their own merits on the basis of preserving privacy.

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

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

Item **1.7**

Reg. No. **9/2008/0055/F**

Applicant:
Midas Touch
School House View
Kingston
Staffordshire
ST14 8QH

Agent:
GCA (UK) Ltd
Babington Lodge
128 Green Lane
Derby
DE1 1RY

Proposal: **The erection of a bungalow at Land adjacent 22 Pear Tree Avenue Newhall Swadlincote**

Ward: **Newhall**

Valid Date: **18/01/2008**

Reason for committee determination

Councillor Wilkins has requested that the application is brought before the committee because local concern has been expressed about a particular issue and there are unusual site circumstances, which should be considered by Committee.

Site Description

The site is the rear garden area of a detached corner plot bungalow. The existing bungalow fronts onto Pear Tree Avenue and the proposed bungalow would front onto Cedar Grove, in the place of an existing garage. All the dwellings immediately surrounding the application site are bungalows. The corner plot bungalows are characterised by having large front, rear and side gardens.

Proposal

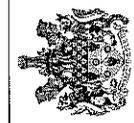
The application is for a detached bungalow measuring 7 metres by 8 metres and 5.3 metres to the ridge. Two car parking spaces would be created for the bungalow, accessed from Cedar Grove. A new access and parking area for the existing bungalow would be created from Pear Tree Avenue.

Applicants' supporting information

The bungalow would be situated on the south east boundary of the site adjacent to No14 Cedar Grove. The accommodation of the bungalow is located over a single storey with sky lights to ensure appropriate natural lighting enters the property while preventing overseeing of the adjacent properties.

9/2008/0055/F Land adj to 22 Pear Tree Ave

Newhall



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

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Date Plotted 22/2/2008
Scale 1:1250
Licence No LA 079375



The layout of the property on the site has been designed to maximise the views from the house and neighbouring dwellings. A 45° line from 14 Cedar Grove's rear window ensures that the dwelling views are unrestricted and do not conflict.

As part of the development a scheme for planting trees and plants of an aesthetically pleasing species at the end of the gardens will take place. The existing planting and garden landscaping in number 22 Pear Tree Avenue will be mostly retained and replanted where it has been disturbed, ensuring the planting is not disturbed wherever possible.

The site is mostly flat and there will be no significant earthworks to the site during the construction of the proposed dwelling.

A new access will be formed to serve the proposed new dwelling, providing the standard two off street car parking spaces adjacent to the property. A new access is also proposed for number 22, again providing two car parking spaces. This will ensure that the parking remains off street and adjacent to the property.

The new dwelling will be constructed 1m from the gable end of No 14 Cedar Grove and the levels on the site will remain as existing with the DPC for the proposed dwelling to match 14 Cedar Grove.

Planning History

No planning history.

Responses to Consultations

Environmental Health has recommended a condition requiring a contaminated land study to be carried out and findings implemented.

Severn Trent Water has no objections.

The County Highway Authority has no objections subject to conditions.

Responses to Publicity

Seven letters of representation have been received raising the following issues:-

- If visitors to 22 Pear Tree park on the road this will impede access to driveways opposite.
- The proposal would spoil the appearance of Cedar Grove and would not be in keeping with the surrounding area and properties.
- The driveway would be nearer to the junction than at present and therefore more hazardous for both vehicles and pedestrians. The roadway at this point is narrow.
- Parking in the road is already limited and a further driveway would make it more limited and make access and egress to driveways more difficult.
- The cul de sac is not wide enough to cope with builder's vehicles and the building work will create mess and inconvenience.
- There is a covenant on the deeds, which states that there should be no more than one dwelling per plot.

- Existing gaps between dwellings on Cedar Grove is 3 metres and the new property would only be 1 metre from the adjoining dwelling.
- The guttering will overhang the adjoining dwelling.
- The adjoining dwelling has suffered from subsidence and the occupiers have concerns that the building works will cause further subsidence.
- The proposed bungalow is set back on the site and will result in loss of light to the bedroom on the rear of the adjoining dwelling.
- The proposal will result in a loss of privacy to the garden of the adjoining dwelling and to the windows of the property opposite and adjoining 22 Pear Tree.
- The creation of the new access onto Pear Tree would be dangerous and the adjoining dwelling would be overlooked from the proposed driveway.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policies 4 and 11.

Planning Considerations

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

- the principle of the new dwelling,
- impact of the dwelling on the character of the area,
- the design and appearance of the dwelling,
- access and parking
- the impact on the occupiers of the neighbouring dwellings.

Planning Assessment

The site is located on garden land within the Swadlincote urban area where new residential development is acceptable in principle in line with the provisions of Housing Policy 4 of the Local Plan.

The proposed bungalow would be located in the rear garden of 22 Pear Tree Avenue and would front onto Cedar Grove in the same alignment as the adjoining bungalow, 14 Cedar Grove. The rear garden measures 12 metres by 23.5 metres and the proposed bungalow would be located within 5 metres of the rear of 22 Pear Tree Avenue and 1 metre from the side of 14 Cedar Grove. The construction of a dwelling on this corner plot will change the character of the area in so far as the corner plot dwellings have large garden areas and one of these gardens will be developed. The main visual impact will be from Cedar Grove although as there is a garage on the site currently, it is not considered that the development will result in the loss of a significant open gap.

The Applicant has confirmed that the proposed dwelling would be constructed at the same level as 14 Cedar Grove, 1 metre from the side elevation and would be viewed in alignment with the existing row of bungalows fronting Cedar Grove. The design has been amended so that the bungalow has a gable roof rather than a hip and so that the front bay windows are built out from ground level. These amendments would help to integrate the proposal better into the street scene. The bungalow would have a gable end fronting the road whereas the majority of the bungalows on the road have gables side onto the street. However this mix of orientations is not unusual in the wider surrounding area.

The existing dwelling would have a new access from Pear Tree Avenue. This access could be created without the need for planning permission. The proposed dwelling would be accessed from Cedar Grove; the existing access to No 22 Pear Tree would be altered. Planning permission would not be required for this alteration either. On the advice of the County Highway Authority the proposed parking and accesses are sufficient to serve both dwellings.

The proposed bungalow would be set back slightly from the rear elevation of No 14 Cedar Grove but complies with the space about dwellings standards and does not breach the 45 ° line with respect to the rear bedroom window. The privacy of the windows on no. 22 Pear Tree Avenue would not be adversely affected by the proposal. The proposed dwelling would be located within close proximity of the windows but as the dwelling would be single storey only it is considered that it would not be unduly overbearing. The garden to 14 Cedar Grove drops down to the rear and therefore the proposed bungalow would overlook the end of the garden to a certain extent. However, appropriate boundary treatment should maintain the privacy to the part of the garden directly adjacent to the dwelling.

For the reasons set out, the proposal is considered 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

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 1/5226/02B, 1/5226/03A, 1/5226/04A, 1/5226/05A.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
4. 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.

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. Before any other operations are commenced a new vehicular access shall be created to Pear Tree Avenue in accordance with the application drawings, laid out, constructed and maintained in perpetuity free from any obstruction to its designated use.

Reason: In the interests of highway safety.

8. Before any other operations are commenced (excluding Condition 7 above) space shall be provided within the application site in accordance with the application

drawings for the replacement parking of 22 Peartree Avenue, laid out, constructed and maintained in perpetuity clear of any obstructions to its designated use.

Reason: To ensure that adequate parking/garaging provision is available.

9. Before any other operations are commenced (excluding conditions 7 and 8 above) the existing access to Cedar Grove shall be modified in accordance with the application drawings, laid out, constructed and maintained in perpetuity clear of any obstruction to its designated use.

Reason: In the interests of highway safety.

10. The access, the subject of conditions 7 and 8 above, shall not be taken into use until 2 x 2m x 45 degree pedestrian intervisibility splays have been provided on either side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

11. The premises, the subject of the application, shall not be occupied until the space has been provided within the application site in accordance with the application drawings for the parking of residents vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: To ensure that adequate parking/garaging provision is available.

12. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

Informatives:

The 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.

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.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification shall be given to the Environmental Services Department at County Hall, Matlock (tel: 01629 580000 ext 7595) before any works commence on the vehicular access within highway limits. The proposed access driveway should be surfaced with a solid, bound material (ie not loose chippings) for the initial 5 metres measured back from the nearside highway boundary.

04/03/2008

Item 1.8

Reg. No. 9/2008/0096/TC

Applicant:

Gary Winfield
SDDC
The Depot
Darklands Road
Swadlincote
Derbyshire
DE11 0AH

Agent:

Gary Winfield
SDDC
The Depot
Darklands Road
Swadlincote
Derbyshire
DE11 0AH

Proposal: The pruning of an ash tree at Greenbank Leisure Centre Civic Way Swadlincote

Ward: Swadlincote

Valid Date: 29/01/2008

Reason for committee determination

This application is before the Committee because the Council is the applicant.

Site Description

The ash tree that is subject of this application lies adjacent to Greenbank Leisure Centre overhanging the public footpath and Hearthcote Road. The site lies within Swadlincote Conservation Area.

Proposal

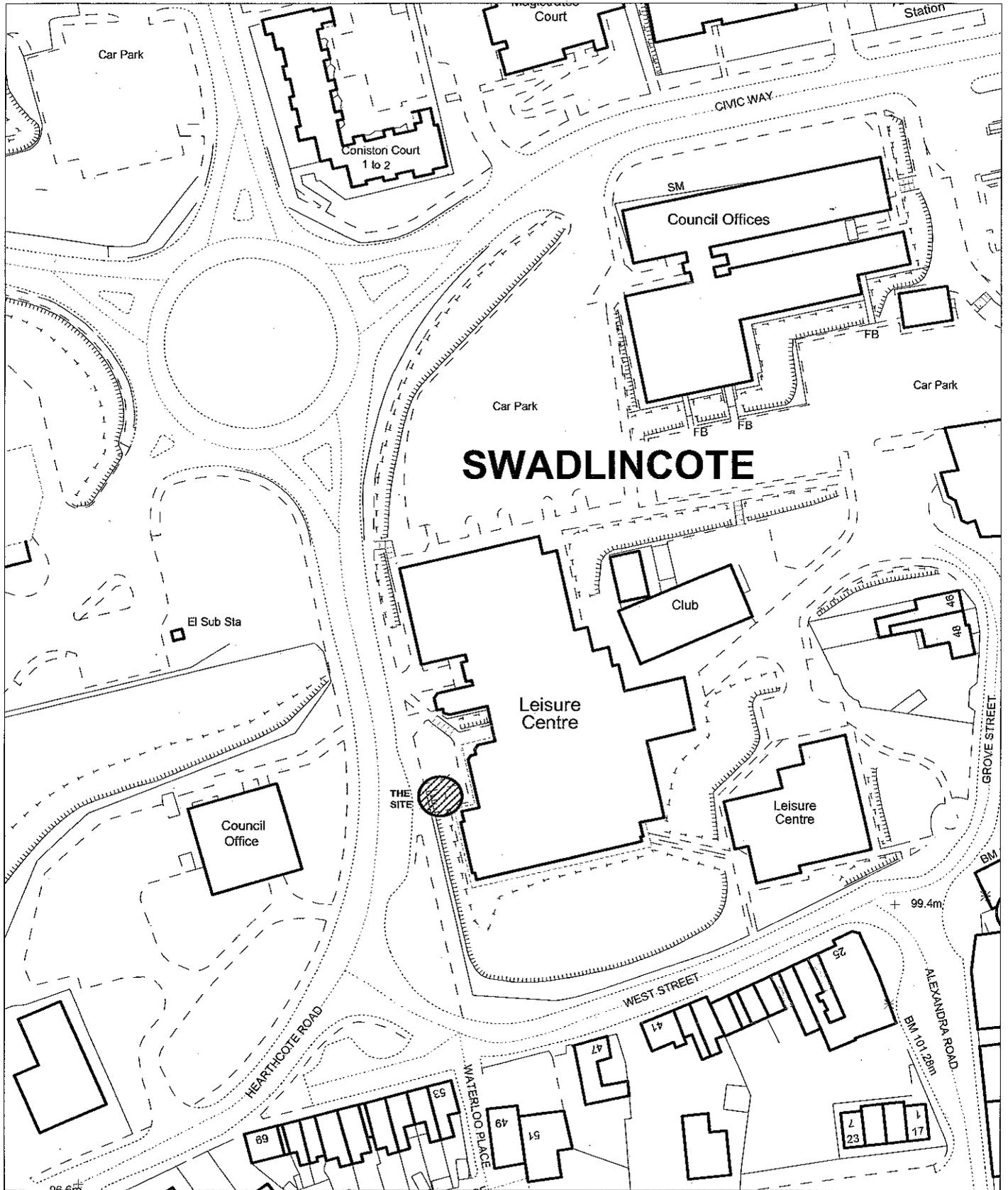
It is proposed to prune the ash tree.

Applicants' supporting information

The statement that accompanies the application for the reason for pruning is to remove the tree away from the Greenbank Leisure Centre building and the nearby street light.

Planning History

None relevant.



 <p>South Derbyshire District Council Civic Offices Civic Way Swadlincote DE11 0AH</p>	<p>9/2008/0096/TC Greenbank Leisure Centre Civic Way Swadlincote</p>	<p>Date Plotted 22/2/2008</p>	<p>NORTH ↑</p>
	<p>Crown Copyright. All rights reserved. South Derbyshire District Council OS Licence No. LA 100019461. 2006</p>	<p>Plot centred at 429713 319632</p>	<p>Scale 1:1250</p>

Responses to Consultations

The Council's arboricultural consultant confirms that the proposal is acceptable.

Responses to Publicity

No response was received during the preparation of this report.

Development Plan Policies

The relevant policies are:
Local Plan: Environment Policy 9

Planning Considerations

The main issue central to the determination of this application is whether the works proposed to the trees should be controlled through the imposition of a Tree Preservation Order on the tree.

Planning Assessment

Environment Policy 9 seeks to ensure that specimen trees of value are protected.

The Council's arboriculture consultant has confirmed that the proposal is necessary in this case and that the works would not detract from the value or health of the tree.

Recommendation

That **no objection** be raised to the proposal.

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
9/2007/0769	Newhall	Newhall	Allowed	Delegated
9/2007/0918	Swarkestone	Aston	Allowed	Delegated



Appeal Decision

Site visit made on 22 January 2008

by **A. U. Ghafoor** BSc (Hons), MA, 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
email: enquiries@pins.gsi.gov.uk

Decision date:
7 February 2008

Appeal Ref: APP/F1040/A/07/2056929

18 Watery Lane, Newhall, Swadlincote, DE11 0UF

- 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 Elton against the decision of South Derbyshire District Council.
- The application Ref 9/2007/0769/F, dated 28 June 2007, was refused by notice dated 5 September 2007.
- The development proposed is described as "erect 3 no. detached 4 bed dwellings + access road formed off Dale Close."

Decision

1. I allow the appeal, and grant planning permission for the erection of detached dwellings and access road at 18 Watery Lane, Newhall, Swadlincote DE11 0UF, in accordance with the terms of the application, Ref 9/2007/0769/F, dated 28 June 2007 and the plans submitted with it, as amplified in paragraph 2 below, subject to the conditions set out in the schedule below.

Procedural Matters

2. The Council describes the development as "the erection of detached dwellings and access road". This best describes the scheme, and I have used it in my decision. During the site visit, both parties agreed that drawing nos. 10992.2B and 10992.3B show the proposed design of the development, although in its statement the Council states that the layout has not been agreed. I have made my decision based on these plans.
3. The Council states that Environment Policy 11 of the South Derbyshire Local Plan 1998 (LP) was referred to in error in its decision notice. I will refer to Environment Policy 9 which is the correct one. Both parties agree that the policies of the Derby and Derbyshire Joint Structure Plan (2001), referred to in the Council's decision, have not been saved by Direction of the Secretary of State.

Main issue

4. I consider the main issue is the effect of the development on the character and appearance of the area, with regards to loss of the open space and the proposal's impact on the protected trees and hedgerows.

Reasons

5. The plot is situated within a built up area surrounded by a mixture of residential properties. The 3 detached dwellings would be located along the southern boundary of the site. They would be about 10.5 metres wide and 10.6m deep, and each would be around 7.8m in overall height. The Council does not object to the

scheme on the grounds that nearby occupiers' living conditions would be affected and I have no reason to disagree, due to the siting and location of the dwellings.

6. I consider LP Housing Policy 4 to be pertinent because it relates to residential development within built up areas. Criterion (v) seeks to ensure that open spaces, gaps and landscape features that make a valuable contribution to the character, or the environmental quality of the area, should be preserved. Environment Policy 9 states that proposals should not lead to the loss of areas of woodland, or specimen trees of value to their landscape, and conditions would be imposed to secure additional planting.
7. The Council argues that there is a lack of open space within the built up area, whereas the appellants consider that the site is close to existing parks and woodlands. During my inspection, I saw various play and open spaces nearby, and I note that the development would be located close to the countryside. Planning Policy Guidance 17: *Sport and Recreation* encourages the allocation of adequate land for recreational purposes; however, their designation and preservation must be based on an assessment of need. In my view, the Council has failed to demonstrate that the loss of this site would be debilitating to the existing level, or quality, of open space provision within the wider area.
8. The Council concedes that the plot is part of an unusually large garden. It is accessed via no. 18 and it is enclosed by fences and hedges. Apart from views in Dales Close the site is not visually prominent. I appreciate the Council's view that in its undeveloped state the space contributes to the environmental quality of the area, and that it has incidental value. The trees and hedgerows are visually important and are protected by a tree preservation order, but the appellants state that no trees would be lost, and the proposal would involve additional planting. The proposed access would be set away from the oak tree (T1) to the site's north, and the Council submitted no evidence to dispute the appellants' claim that it would not be affected during, or after, construction work. However, some of the existing hedge would be removed to create a new access from Dales Close. I note existing protected orchard trees would form part of the landscape proposal and most of the vegetation would be retained; a condition could ensure protection during construction works.
9. To my mind, the development's physical impact would not be detrimental to the existing landscape or vegetation. Its design, layout and space would maintain a degree of visual relief, and the area's openness would not be materially diminished. Whilst criterion (v) to LP Housing Policy 4 would not be satisfied, I find that the proposal would comply with Environment Policy 9. On balance, it complies with the more recent Planning Policy Statement 3: *Housing*, which encourages the efficient re-use of previously developed land for housing. The development would contribute to the supply of housing to the area in a sustainable way. I conclude that the scheme would not have a detrimental effect on the character and appearance of the area, and that it would not be harmful to the landscape.
10. The occupiers of no. 1 and 2 Dales Close are also concerned about refuse collections and loss of wildlife. Whilst I note that refuse vehicles may find it difficult to enter the Close due to the junction's tightness, I find that adequate space exists for the positioning of refuse bins on the adjacent highway. I consider that the development would not have a seriously negative effect on existing vegetation, and no evidence is before me to demonstrate that wildlife would be affected. I note

that the Council has no objections to the scheme on highway safety grounds, and I find that there would be adequate access, turning space and off street car parking.

11. The Council has suggested conditions, which I will consider in the light of guidance in Circular 11/95. I agree that the external materials should be approved. The Council proposes that gutters and down pipes should be black-finished, fixed direct to the brickwork, and that details of bargeboards and exposed rafter feet should be agreed, but I consider such a condition would be unreasonable because I have found no objections to the character and appearance of the scheme. The appellant agrees that a landscaping scheme should be submitted. However, I will not impose a condition removing permitted development rights for extensions because no special justification has been advanced, as is required by the Circular. I have modified the suggested highway condition to reflect guidance in the Circular.
12. For the reasons given above I conclude that the appeal should be allowed.

A. U. Ghafoor

INSPECTOR

Schedule of Conditions for appeal reference APP/F1040/A/07/2056929

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- (2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- (3) No development shall take place until there has been submitted to, and approved in writing by the local planning authority, a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be carried out in accordance with the approved details. The boundary treatment shall be completed before the building is occupied, and thereafter retained as such.
- (4) No development shall take place until full details of both hard and soft landscape works have been submitted to, and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the site, those to be retained, and measures for their protection in the course of development. Development shall be carried out in accordance with the approved details, and be thereafter retained.
- (5) 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 building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- (6) No dwelling shall be occupied until a means of vehicular access, and turning and parking facilities have been constructed in accordance with the approved plans.
- (7) No development shall take place until details of both foul and surface water drainage have been submitted to, and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, which shall be thereafter retained.



Appeal Decision

Site visit made on 4 February 2008

by **Julia Gregory BSc (Hons) BTP MRTPI**
MCM1

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
email: enquiries@pins.gsi.gov.uk

Decision date:
21 February 2008

Appeal Ref: APP/F1040/A/07/2057796

The Cart Hovel, Lowes Lane, Swarkestone, Derby DE73 7GQ

- 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 Gerry Smith against the decision of South Derbyshire District Council.
- The application Ref 9/2007/0918/FH, dated 27 July 2007, was refused by notice dated 5 October 2007.
- The development proposed is for the erection of a double garage extension.

Decision

1. I allow the appeal, and grant planning permission for the erection of a double garage extension at The Cart Hovel, Lowes Lane, Swarkestone, Derby DE73 7GQ in accordance with the terms of the application Ref 9/2007/0918/FH, dated 27 July 2007, and the plans submitted with it ref 001, 002 and 003, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. These shall include details of the pointing material. Development shall be carried out in accordance with the approved details.
 - 3) Drawings to a minimum scale of 1:10 of eaves, verges and external joinery, including horizontal and vertical sections, precise construction method of opening, and cill and lintel details shall be submitted to and approved in writing by the local planning authority before construction commences. The building shall be constructed in accordance with the approved details.
 - 4) A sample panel of pointed brickwork 1 metre square shall be prepared for inspection and approval in writing by the local planning authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.
 - 5) All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards shall be located inside the building unless approved in writing by the local planning authority. The type, number, position and

finish of heating and ventilation flue outlets shall be agreed in writing by the local planning authority before any development is commenced.

- 6) Gutters and fall pipes shall be cast metal.

Main issue

2. I consider the main issue to be the effect of the proposal on the character and appearance of the area which includes the setting of the Lowes Farmhouse.

Reasons

3. The Cart Hovel is located close to Lowes Farmhouse and attached farm buildings which are grade II listed buildings, but it is not specifically within its curtilage. The Cart Hovel is a residentially converted single storey agricultural building but it has been substantially extended. It is a long narrow building with a pitched roof. The double garage would reflect the current form of the Cart Hovel by using the same pitch and ridge height. By use of a flat roof section it would be attached to the dwelling, but by this design it would also be apparent that this was an addition to the original structure. The fine detailing of the high level glazing, details of the verge and materials could all be controlled to match the existing building. The Council has suggested conditions in respect of the construction details in order to protect the setting, which in a simplified form would ensure that the fine details would not be compromised. Whilst I appreciate that the form of the building would be altered I consider that this would not be harmful to the current character and appearance of the building given the particular design of the extension.
4. I acknowledge the importance of the context of the building and the statutory duty in respect of considerations in regard to the listed building setting. Preserving the setting of the listed building complex is also required by South Derbyshire District Local Plan (LP) Environment Policy 13 in the context of the overarching Regional Spatial Strategy policy 31. LP Housing Policy 13 also seeks to protect the general character of the area. I saw that there were single storey gable ended buildings in the curtilage of the listed building and the wider setting. The Cart Hovel turns its back on the listed building and a pitched roofed garage separated from the Farmhouse adjoins the common boundary, screening the entrance to the Cart Hovel. The relationship of buildings to each other in the vicinity is not all at right angles.
5. I looked carefully at the setting from the north, where the garage extension would be visible from the highway. The garage would appear merged into the building behind if constructed as shown. From the east across the access road part of the building would be glimpsed from the highway, but it would be seen amongst other buildings. From within the curtilage of the listed building the garage would be screened by the adjacent garage to the Farmhouse and the Cart Hovel building itself. Given the limited scale and finely matching details of the proposal and its context close to many extended buildings, I conclude that the proposal would not harm the character and appearance of the area which includes the setting of the Lowes House Farmhouse, and that it complies with the thrust of the development plan policies.

Julia Gregory

INSPECTOR