

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

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

1. The issues of fact raised by the Head of 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. **9/2009/0095/FM**

Applicant:

John Bowler Farms LLP
Badger Farm
Willowpit Lane
Hilton

Agent:

BJT Architects
8 Eldon Chambers
Wheelergate
Nottingham

Proposal: **The erection of a dwelling on Land To The Rear Of 132
134 Derby Road Hilton Derby**

Ward: **Hilton**

Valid Date: **23/02/2009**

Reason for committee determination

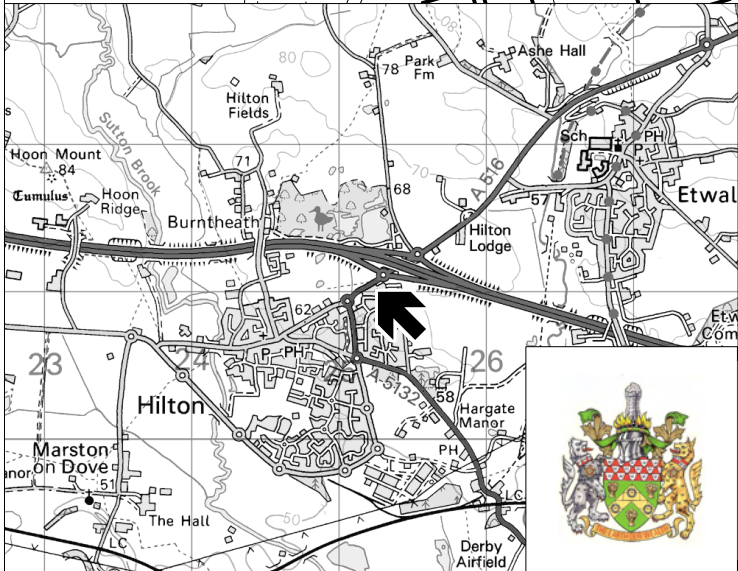
Councillor Mrs Plenderleith has requested that the application be brought to Committee as an issue of local concern has been raised.

Site Description

The site comprises the rear gardens of the above properties; the site has several trees within it and adjacent to it. The site is enclosed by a hedge on its east boundary within the hedge is a large oak tree. There is a fence to the south and west boundaries. The north boundary is currently open as that is the garden to 132 & 134 Derby Road. The land is relatively level in relation to surrounding dwellings. There is a long rear garden to 136 Derby Road beyond the east boundary and beyond that are a group of fields allocated for housing development in the Local Plan.

Proposal

The proposal is to erect a single detached dwelling of some 220sqm including the integral garage. It would be constructed in brick and red clay tiles. Much of the upper floor accommodation is within the roof space. The house has been designed so that there are no windows in the south elevation to ensure that there is no overlooking of the rear of houses on Pegasus Way. The same principle has been applied to the nearest gable end that faces the rear of 132 & 134 Derby Road. The application plans indicate that 6 trees on the application site, in the vicinity of the new house, would be removed. A new rear boundary to 132 & 134 Derby Road would be constructed should planning permission be granted; the application plans indicate that this would be a fence with planting to soften its appearance



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Access to the site would be from a new access to Derby Road with a separate drive to the side of 134 Derby Road, 134 would retain its own access to Derby Road.

Applicants' supporting information

The Design and Access statement that accompanies the application indicates that the area has a variety of building styles dating from the 1930's and earlier to the current day. The design of the dwelling has been drawn from the older properties in the centre of the village to reflect more closely the original historic context of the village. It confirms the intention not to have windows looking towards the houses on Pegasus Way. It identifies that the site boundaries are mature hedge and tree planting that would be retained to give a strong boundary between the proposed dwelling and the houses to the south. The applicants assert that the development conforms to the provisions of the East Midlands Regional Plan and the saved policies in the South Derbyshire Local Plan, notably Housing Policy 5 & 11 and Transport Policy 6. It also accords with Government advice in PPS 1, 3 and 13.

Planning History

An outline planning application for a house on this site was withdrawn last year. Prior to that the land was part of a wider scheme for offices and flats.

Responses to Consultations

Hilton Parish Council strongly object to the application on the grounds that it would overshadow and overlook dwellings on Pegasus Way resulting in a loss of privacy for those occupiers. The proposal represents an overdevelopment of the area. The speed survey was undertaken at midday shortly before Christmas and the Parish Council requests that the County Council redo it at a peak time.

The County Highway Authority has no objection subject to the inclusion of conditions relating to highway safety.

Severn Trent Water has no objection.

The tree consultant has examined the oak tree adjacent to the access drive and provided a 'no dig' technique is used beneath the canopy it should not suffer any long-term damage should planning permission be granted

Responses to Publicity

One objection has been received that objects to the application for the following reasons: -

- a) Hilton has had to put up with increased noise levels following the opening of the A50. Existing trees help to screen that noise, the new road and parking area next to houses would increase noise levels.
- b) The area is a wildlife haven with many wild animals observed and the development would lead to a loss of part of this habitat.
- c) The development would result in increased traffic on an already busy stretch of road that surely cannot take any more. Many children going to John Port School as well as dog and other walkers use this route.

- d) The development would reduce property prices in the area; whilst accepting this is not a valid reason for rejecting a planning application, it is considered pertinent in the current economic climate to mention this as the impact on the objector and his neighbours would be significant and this cannot be tolerated.

Development Plan Policies

The relevant policies are:

RSS8: Policies 1, 2, 3 & 12

Saved Local Plan Policies: Housing Policy 5, 6 & 11, Transport Policy 6

National Guidance

PPS 1,3 & 13

Planning Considerations

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

- The Development Plan
- Impact on Neighbours
- Highway considerations

Planning Assessment

The site lies outside the defined village confine for Hilton. However, the site is enclosed on three sides by housing development and the land beyond the garden to 136 Derby Road is allocated for new housing development. It would be difficult to argue that the site is not part of the built area of the village. Indeed in preparing the replacement Local Plan, this land would have been contained within the village confine for Hilton, given the allocations and the presence of significant levels of new housing development in the vicinity of the site. Accordingly the development is considered to comply with the provisions of Housing Policy 6 – other rural settlements. It is the consolidation of a small parcel of land within an otherwise built up area.

The dwelling has been designed to minimise the potential for overlooking of neighbouring dwellings. The main habitable room windows are in the east and west facing elevations and because of the way the adjoining housing is laid out; the dwelling would overlook no main habitable rooms in the adjacent dwelling at distances below those specified in the Councils Adopted Supplementary Planning Guidance – Housing Layout and Design. However, if the north and south elevations were altered following construction of the house, there may be a problem. A condition is recommended to prevent subsequent alteration without planning permission first being obtained.

There is potential for overlooking from the bedroom windows in the west elevation of the 'private area behind one of the dwellings on Pegasus Way but the retained trees would effectively screen those views to a point where it would be difficult to argue that permission should be refused for this reason. The Parish Council has raised concern about the overlooking and overshadowing of the houses on Pegasus Way. The application layout has been checked against adopted standards and no overlooking would occur. The properties on Pegasus Way lie generally to the south of the proposed

dwelling and it is probable that the existing houses would cause overshadowing of the new house rather than visa versa.

The County Highway Authority has raised no objection to the application subject to conditions. The Parish Council has argued that the speed survey should have been carried out at a different time of year. It is agreed that this would be the case if the issue was the counting of traffic but the intention was to check traffic speeds. The County Highway Authority has accepted the information and to refuse for this reason would not be sustainable.

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 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.
3. No part of the development shall be carried out until precise details and samples of the facing materials to be used in the construction of the external walls and roof of the building 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. Before development is commenced, details of the method of construction of the drive shall be submitted to and approved in writing by the Local Planning Authority, the drive shall then be constructed in accordance with the approved details and a porous surface shall be maintained at all times beneath the canopy of the oak tree adjacent to the drive.
Reason: In order to ensure that the construction of the drive does not prejudice the long-term future health of the oak tree within the hedge on the eastern boundary of the site.
5. Before any other works are commenced on the site the new driveway and access to Derby Road shall be constructed in accordance with a detailed scheme of construction that shall first be submitted to and then approved in writing by the Local Planning Authority in consultation with the County Highway Authority
Reason: In order to ensure that the access and drive are available to serve the construction of the dwelling in the interests of highway safety.

6. The dwelling hereby permitted shall not be occupied until the parking areas indicated on the submitted drawings have been constructed and surfaced in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

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

7. The gates hereby permitted shall be designed so as to open inwards only.

Reason: In the interests of highway safety.

8. 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 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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, there shall be no external alterations, including the insertion of new windows, to the buildings other than as approved under this permission except in response to the grant of planning permission in response to an application made in that regard.

Reason: In the interests of preserving the setting of the building and the character of the area.

11. 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:

Further to Condition 4 above, details shall include provision of a 'no dig' construction method further information on which can be found in BS 5837 Trees in relation to construction.

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

Item **1.2**

Reg. No. **9/2009/0188/U**

Applicant:

Mr L Smith
Mile End
Uttoxeter Road
Hilton
Derby

Agent:

Roger Yarwood,
Chartered Town Planner
Wheatley Barn
Wheatley Road
Two Dales
Matlock

Proposal: **The retention of a family gypsy site for three caravans on a permanent basis and the erection of permanent amenity block at Mile End Uttoxeter Road Hilton Derby**

Ward: **Hilton**

Valid Date: **23/03/2009**

Reason for committee determination

The application is brought to Committee at the request of Councillor Patten who states that local concern has been expressed about a particular issue.

Site Description

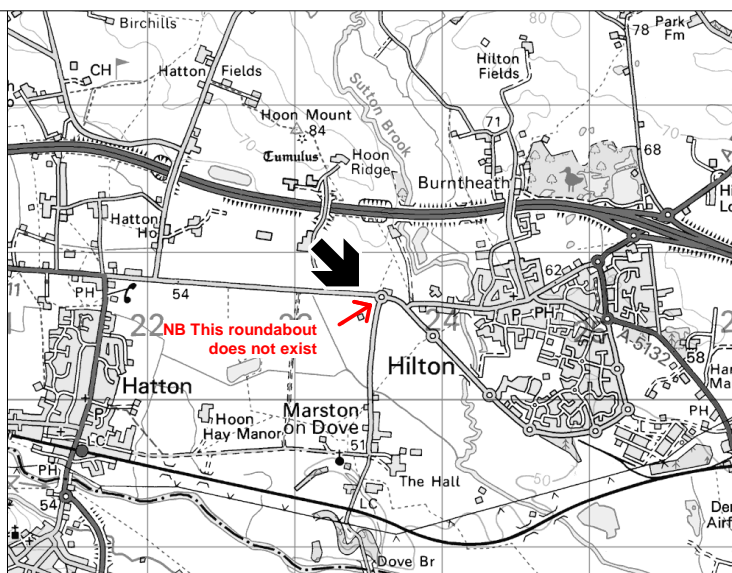
The site is located on the outskirts of Hilton, it is relatively flat and enclosed by close boarded fencing about 1.4 metres high within which landscaping works have been undertaken. These comprise laurel hedges to the frontage and some tree planting along the west boundary. There is an existing hedge on the east boundary that separates it from the neighbouring paddock that belongs to a dwelling known as Moor End Cottage.

Proposal

The site has a temporary planning permission for use as a gypsy site; the current application seeks to make that permission permanent and also seeks permission to erect an amenity block within the site to provide day facilities for its occupiers. The site would continue as a site for up to three caravans for members of the travelling community as defined in Circular 01/2006.

The amenity block would be a brick building some 4.5 metres wide and 7.5 metres long; it would have a tiled pitched roof.

None of the existing trees or hedges would be affected by the development but if the Committee considers it necessary, then further tree planting could be undertaken.



THE SITE

52.7m

Moorend
Well



Sports Ground



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Applicants' supporting information

The applicants draw attention to their need for a secure base for reason of the health of the applicants and the ongoing adult education of the youngest of their children. The site will continue to be occupied by the applicant who it is stated is a Romany gypsy. There is no intention to have heavy vehicles on the site. The applicant's argue that the existing landscaping provides good screening to the site.

The applicant's assert that Government policy in the form of Circular 01/2006 is to increase the numbers of sites in the country. The Gypsy Traveller Needs survey has identified a need for a further 19 permanent pitches in South Derbyshire.

Planning History

A two year temporary planning permission was first granted in 2005 by an Inspector following an appeal, pending the assessment of the future needs for sites in Derbyshire including South Derbyshire. When that permission expired the Survey was nearing completion but had not been finalised. Accordingly a further temporary permission was granted that expires in January 2010.

Responses to Consultations

Marston on Dove Parish Meeting has not responded.

The County Highway Authority has no objection subject to the same conditions being imposed as previously.

The Environment Agency has no objection to the use provided that the finished floor level of the building is set at 52.7m above ordnance datum to take account of extreme flooding events taking account of climate change. Surface water disposal should be to soakaways and the use of a septic tank is acceptable to the Environment Agency for foul water disposal but it would prefer a 'package treatment plant' where the quality of water discharged is higher.

The Environmental Protection Manager has no objection.

Responses to Publicity

Two e-mails from the same address have been received commenting in the following terms on the proposed development: -

- a) The site is unoccupied for much of the year as the owner is out travelling between March and October.
- b) The accommodation block seems to be of excessive size given that the site is limited to a maximum of three caravans. It is more akin to a block that would serve up to 25 caravans on a normal camping site. This is more like a small bungalow. The size of the accommodation block should be reduced to something more akin to a three-caravan site.
- c) The ownership of the site should be tied to the current occupier, who keeps the site tidy, for at least 10 years.
- d) The materials of construction should be controlled, as a concrete block building would appear out of character and an eyesore to the passer-by.

- e) There is and would be noise from a generator and dogs kept on the site.
- f) The presence of the site may prejudice future possible housing development that will take place, which would be less than ideal.
- g) The permanent site would detract from the value of houses and make them difficult to sell.
- h) Permission for a dwelling on the adjacent land was refused and the gypsy site should be considered in the same way.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan (EMRP): Policies 1, 2, 3, 12 & 16.

Local Plan: Environment Policy 1, Housing Policy 15.

National and other Guidance

ODPM Circular 01/2006

PPS 1 & 3

Derbyshire Gypsy and Traveller Accommodation Assessment 2007 – (GTAA)

Designing Gypsy and Traveller Sites - Good Practice Guide – May 2008 - DCLG

Planning Considerations

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

- Relevant planning history
- The Development Plan
- National Policy in respect of gypsy sites and provision
- The impact of the application site and its relationship to Hilton.
- The proposed built accommodation on the site.
- Consultee requirements
- Comments from objectors

Planning Assessment

Relevant Planning History

When this site was considered at appeal in 2005, it also considered whether the site should be cleared under enforcement powers. When the application for this site was first considered the proposal was for up to 5 caravans and a brick built amenity block. At the appeal the scheme was amended to a maximum of three caravans (on two pitches) and the amenity block was removed from the proposal.

The Inspector went on to discuss the merits of the site in terms of impact on the countryside, highway safety, sustainability of the location and other environmental considerations. He identified that the site would accommodate two pitches.

In his overall conclusions, the Inspector found that there were objections to the site on landscape, sustainability and residential amenity grounds but that were not of sufficient force to rule the site out completely at that stage or require the site to be vacated speedily. He granted permission for two years to allow a proper assessment of need to be undertaken. The Inspector's report must now be considered a material consideration in determining this application and should be afforded great weight.

Since that time additional landscaping has become established and the site is therefore less prominent than when viewed by the Inspector. The GTAA has been completed and given that there is an ongoing need for more accommodation in the District, the grant of temporary permission pending an assessment of the need by the Inspector suggests that if there is a need then this is a suitable site to meet that need.

The Development Plan

The Development Plan position is set out in Policy 16 of the EMRP. This sets a requirement for South Derbyshire to identify an additional 19 pitches within South Derbyshire within the period 2007 – 2012. It requires that LDFs should make provision that takes account of future population beyond 2012 based on 3% compound growth per year to 2026.

Thus in addition to 19 new sites up to 2012 further pitches will need to be identified up to 2026 to meet the requirements of the EMRP for gypsy sites in South Derbyshire through its LDF. In the light of this South Derbyshire District Council in consultation with other Authorities will be reviewing the 2007 GTAA with a view to the updated study guiding the needs of the travelling community beyond 2012.

Housing Policy 15 of the adopted South Derbyshire Local Plan sets criteria assessing the suitability of sites proposed for gypsy sites. These criteria need to be read in the light of the advice in Circular 01/2006 that states gypsy sites can be appropriately located in the countryside and that Planning Authorities should include rural exception policies in LDF that makes provision to accommodate Gypsy and Traveller sites. 'Rural settings, where not subject to special planning constraints, are acceptable in principle' – PPS 3.

Planning Policy Statement 3: Housing sets out the Government's national planning policy framework for delivering its housing objectives. It applies equally to site accommodation provided for the Gypsy and Traveller communities.

Paragraphs 12-19 of PPS 3 stress the importance of good design in developing high quality new housing and identify the key issues, which must be considered to achieve this.

Paragraphs 20 to 24 identify the key characteristics of a mixed community and make it clear that this can only be secured by achieving a good mix of housing, including accommodation for Gypsies and Travellers. To this end the Department for Communities and Local Government has the published design guidance.

Development Plan and Government Advice Conclusions

The most up to date policy document is the EMRP and this requires additional provision in South Derbyshire. This is based on the GTAA for Derbyshire. This site was permitted in 2005 on the basis that the survey was about to be undertaken and that once the assessment was undertaken, the Local Planning Authority would be in a better position to assess whether this site was needed for a gypsy family. The results of the survey are such that provision above the level already provided for is necessary to meet the needs of the travelling community.

In terms of the advice in Circular 01/2006, the site is in the countryside and there are no special designations that would suggest that permission be refused. It is within

reasonable walking distance of the centre of the village and its associated facilities. The site has a reasonable access to the highway and the landscaping at the site is maturing to provide a setting for the site. The site also meets the criteria in Housing Policy 15.

In the light of the above the permanent retention of the site for the travelling community is considered to comply with National and Local Planning Policy in respect of sites for the travelling community. Conditions can be attached to the permission that would control business use on the site as well as the size of vehicle able to utilise the site. The occupation of the site can also be limited to those members of the travelling community that comply with the definition of a gypsy set out in the Circular.

Built Accommodation – the day room

The document 'Designing Gypsy and Traveller Sites - Good Practice Guide' published by DCLG sets out standards that should be considered when designing or refurbishing gypsy sites. The advice document states that a day room is an essential feature of a well-planned site and amenity buildings should contain kitchen/day room, utility and bathroom facilities. The building proposed on this site contains these facilities.

The assertion by the objector that the building is like a small bungalow is not sustainable as a reason for refusal. It has a reasonably small footprint and only contains the facilities identified in the Government advice document. The materials of construction for the building can be controlled by condition that would require the building to be constructed in brick and tile specified on the application form – the precise details of these materials to be agreed prior to the commencement of building operations.

Consultee Requirements

Consultee requirements are as set out in the Conditions recommended below. The Environment Agency note about an alternative means of foul water disposal is added as an informative to the end of the decision.

Comments from Objectors

Comments about the size and appearance of the amenity building have been made above.

The request that the occupation of the site be limited to a particular family of gypsies has been noted. However the policies require that traveller sites be available to the whole of that community. Restricting the occupation to anything other than the whole community would be viewed as an unreasonable restriction on the ability of the occupier to sell his site. A condition that restricts sale of a gypsy site to members of the travelling community is reasonable. It is similar to the agricultural occupancy condition imposed on farmers when they receive permission for a dwelling in the countryside that is otherwise unacceptable but for the special justification to meet the needs of the business.

The possibility of more housing developments in the vicinity of the site is unlikely given the policy framework in the EMRP. The main policy thrust in it for housing is for development to be concentrated on the edge of Derby and only limited development is anticipated in the villages in South Derbyshire. In any event any application would be considered on its merits. This was the case when the dwelling on the site adjacent to the gypsy site was considered. There was no special justification for a permanent dwelling in the countryside and as such the application was refused.

If there was excessive noise from the site, in this instance it would be appropriate to control it through the provisions of the Environmental Protection Act rather than the imposition of a planning condition.

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. 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.
2. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.
Reason: To ensure the building is in keeping with its surrounding in the interest of the character and visual amenity of the area.
3. No more than 3 caravans shall be stationed on the land at any time. No caravan shall be stationed on the site that is not capable of being towed legally on a public road.
Reason: In order to ensure that the site is not occupied by structures that are not capable of being towed on the public highway to ensure that the site is retained available for the travelling community.
4. This permission does not authorise the use of the land as a caravan site by any other persons than gypsies as defined by Paragraph 15 of Circular 01/2006 issued by the then Office of the Deputy Prime Minister in February 2006
Reason: To ensure that the site is retained available to the travelling community.
5. No commercial activity shall take place on the site.
Reason: For the avoidance of doubt and to preserve the character of the countryside in the interests of the visual amenity of the area.
6. No vehicle shall be parked or stored on the site that exceeds 3.5 tonnes unladen weight.
Reason: In the interests of the appearance of the area.
7. Within one month of the date of this permission details (including precise dimensions and proposed surface materials) of a vehicular turning area within the site curtilage adequate to enable all vehicles to enter and leave the site in a forward direction have been submitted to the Local Planning Authority. The turning area as approved by the Local Planning Authority shall be laid out and hard surfaced accordingly within three months of the approval of the details and shall be retained available for that purpose thereafter.

Reason: In the interests of highway safety.

Informatives:

The Environment Agency has accepted that foul water disposal can be achieved through a septic tank and soak away system. However, it advises that the use of a Package Treatment system for foul water disposal would result in discharges at a higher quality. Condition 1 above require submission of foul and surface water disposal, the soakaways for both should be kept separate and the foul water soakway should not be located within 10 metres of any water course.

Item **1.3**

Reg. No. **9/2009/0240/RM**

Applicant:

David Wilson Homes East Midlands
Forest Business Park
Cartwright Way
Bardon Hill
Coalville

Agent:

Mr Jim Toothill
David Wilson Homes East Midlands
Forest Business Park
Cartwright Way
Bardon Hill
Coalville

Proposal: **Approval of reserved matters of application 9/0890/0515
for the erection of 309 dwellings and associated works
at Phase 5 Land To The South East Of Swadlincote
Lane Castle Gresley Swadlincote**

Ward: **Gresley**

Valid Date: **25/03/2009**

Reason for committee determination

The application is brought before the Committee as it is a major application with more than two objections.

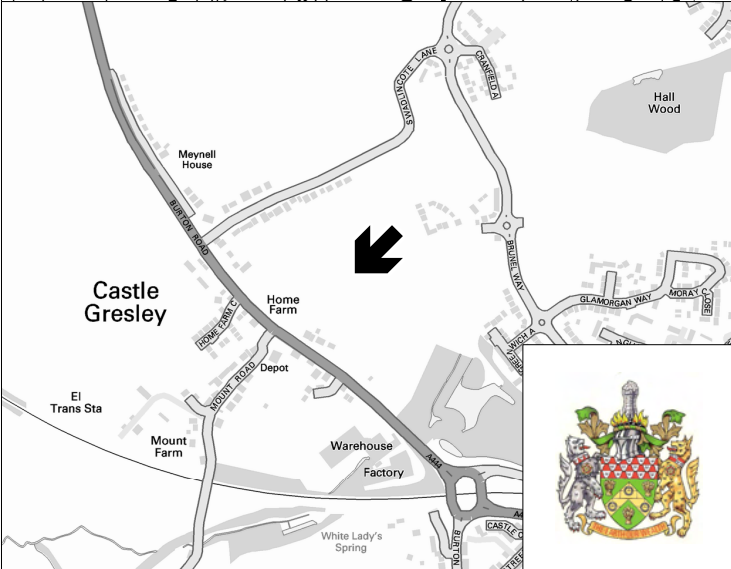
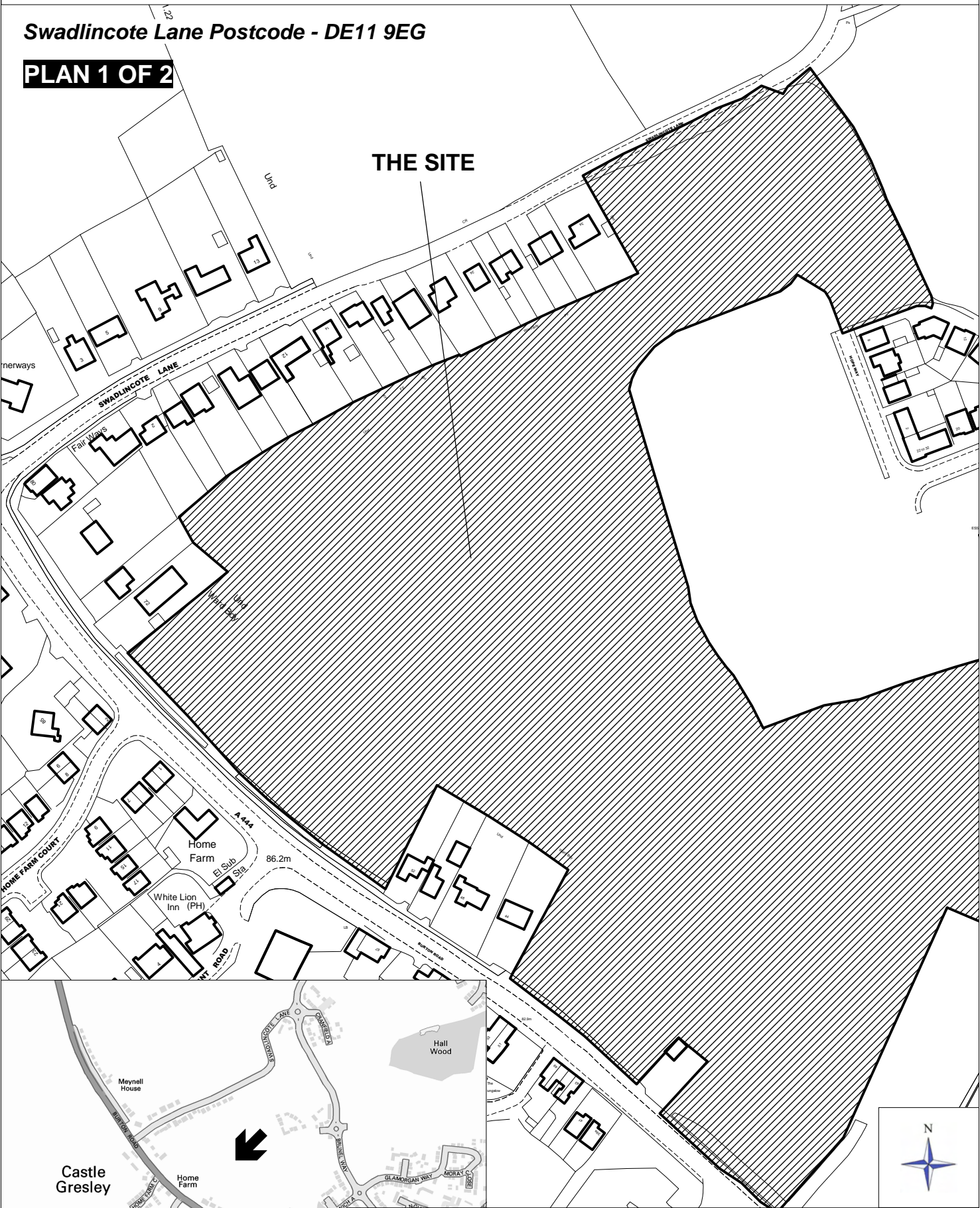
Site Description

This 8.08 hectare site is to the south of Swadlincote Lane, Castle Gresley. The main distributor road through Castleton Park is to the east and Burton Road runs along its south western boundary. The site is undulating with its highest point at the centre of the site. The land level adjacent to Burton Road is approximately 2m higher than the road level. The existing residential properties adjacent to the north western and south western boundaries on Swadlincote Lane and Burton Road are a mix of large detached dwellings to bungalows. The majority of the site boundary is immediately adjacent to Burton Road; however, there are four detached properties in the centre of the site frontage. There is also a builder's yard further along this road to the south east. This site has outline permission for a dwelling granted in May 2008.

The previous phases of the Castleton Park development are continuing to be constructed from the Brunel Way roundabout along Westminster Drive. Approximately 50 dwellings are still to be constructed in the central section of the site under a previous permission for 119 dwellings approved in February 2007 (9/2006/1280). Swadlincote Lane is in the process of being stopped up and a turning head constructed which would provide access for three additional dwellings from the Lane. The north eastern part of Swadlincote Lane would serve as an access for this development from the main roundabout on Brunel Way.

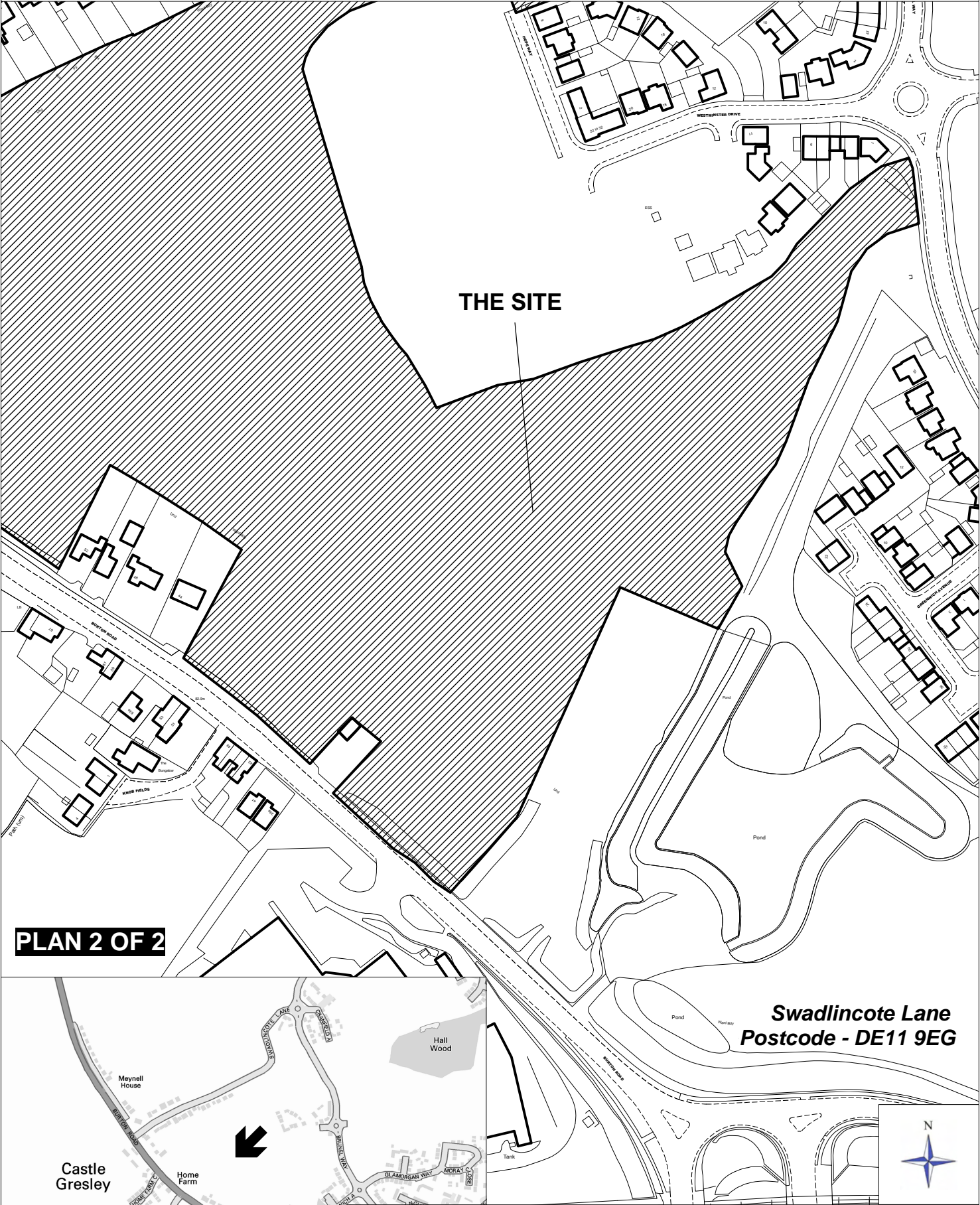
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PLAN 1 OF 2

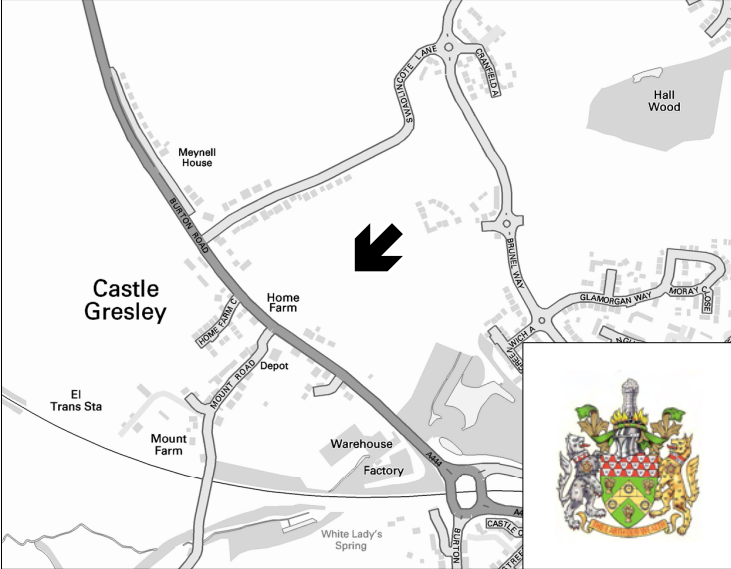


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PLAN 2 OF 2



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Proposal

This reserved matters application proposes the erection of 309 dwellings on the remainder of the Phase 5 part of the Castleton Park development. The reserved matters are appearance, layout and scale.

The proposed footpath/cycleway runs through the centre of the site and would create a link from the main development on Brunel Way through to Burton Road to the west. All along its length dwellings front onto it. This would provide for the main diversion of the current route of footpath 40. In the centre of the site the footpath/cycleway link opens up into an area of public open space framed by dwellings. Public open space is also proposed in the southern corner of the site adjacent to the balancing lagoon and landscape buffer zone adjacent to phase 1 of the development.

The majority of the parking is to the side of dwellings or in rear parking courtyards which is a design feature of the overall development to reduce the visual impact and dominance of cars in the streetscape. The main estate roads link with the western part of Swadlincote Lane and Westminster Drive which both link directly onto main roundabouts on Brunel Way. These estate roads are curved to reduce vehicle speeds and also allow for a more interesting development where dwellings curve around the corners creating landmarks to aid navigation around the site. Along Burton Road the majority of dwellings face the road but the development would not have a direct relationship with the road as no vehicle access is proposed and the existing hedging along the frontage would be retained.

The majority of dwellings are two storey, however three storey town houses have been used to frame the footpath / cycleway link, surround the public open space and add interest on the main corners of the estate roads. Two and a half storey properties are dotted around the site often adjacent to the three storey dwellings. There are no three storey dwellings proposed adjacent to boundaries with existing residential properties on Swadlincote Lane and Burton Road. Plots 650 – 654 are two and a half storey properties adjacent to the Swadlincote Lane boundary; however, there is a distance of 35m from the rear elevation of the existing property to the north.

The range of property sizes are as follows:-

- 9 No. - 1 -2 Bed apartments
- 21 No. - 2-3 Bed affordable houses
- 21 No. - 1 bed life / coach houses
- 37 No. - 2 bed houses
- 138 No. - two storey 3 bed houses
- 41 No. - two and half storey 3 bed houses
- 42 No. - three storey 3 bed houses

Twenty-five dwellings would be classed under the PPS 3 definition of affordable housing. The outline application included a definition for affordable housing based on floorspace and the total of affordable houses on the overall development exceeds the specified land area in the outline Section 106. Therefore these properties are additional affordable housing.

The majority of properties would have 2 car parking spaces, which includes a garage. The smaller properties and apartments would have one space with some visitor parking.

Planning History

9/0890/515 – Outline - Residential Development of approximately 58.3 hectares of land to the south east of Swadlincote Lane, Approved March 2000

Phase 5

9/2006/1280 – Approval of reserved matters of application 9/0890/0515 for the construction of 119 dwellings and associated works, Approved February 2007

9/2007/0415 – Amendment to Phase 5 of scheme approved under 9/2006/1280, Approved June 2007

Responses to Consultations

The County Highway Authority had concerns about some of the detail set out in the original submission and amended plans have now been received primarily to address these concerns. The Authority is now broadly satisfied with the scheme although it considers that access to a few remaining plots via 'drive-unders' are not ideal. However, it considers that these concerns are not sufficient to recommend refusal.

The Derbyshire Police Crime Prevention Design Advisor states that the layout plan in general is acceptable apart from a few hard barriers such as gates and fencing to all communal parking areas with open access. There is a landscaped area that runs to the rear of communal open parking area, which is a concern for security. There is no detail of enclosure or purpose/ function of this green corridor. Natural surveillance of these areas is required. It is recommended that the land be divided to provide amenity for the apartment blocks and /or incorporated into garden space where possible. As in line with the rest of this phased development, the physical security measures should comply with the "Secure by Design" scheme.

The Leisure Services Manager has no objection subject to a landscaping plan setting out which areas are to be offered for adoption.

The Environmental Protection Manager has no comment.

The Contaminated land Officer has no objection subject to a phased contamination survey condition.

Severn Trent Water has no objection subject to conditions relating to drainage.

Derbyshire Wildlife Trust has no objection but comments that there are protected species on adjoining land.

The Environment Agency has no objection subject to there being no increase in surface-water run-off from this section when compared with the original outline layout. Conditions in relation to surface water drainage are recommended.

Responses to Publicity

Thirteen letters of objection were received and are summarised as follows:

- Westminster Drive is too small and narrow for the main access
- Green spaces not sufficient; there would be a lack of green children's areas

- The site is popular with dog walkers and wildlife
- Westminster Drive is the main point of entry
- Developers should supply a school or shops for this size of development
- The hedge opposite No.41 Burton Road should be retained
- There would be a loss of privacy to No.72 Burton Road due to five south eastern facing windows facing the rear of proposed properties
- There would be an overshadowing of No.72
- Plots 383 & 341 are only 1m from the boundary with No.72 Burton Road and would be overbearing
- When a garage was proposed for No.72 Burton Road it could not be set far forward but plots 383 and 341 are
- Properties on Wyedale had a 10m privacy zone and at a meeting at Gresley Old Hall, residents were told they would have a similar area
- There is a concern over maintenance of fencing due to 12 properties being on their boundary
- Parking would be insufficient
- 309 dwelling plus what has already been constructed requires a local distributor road of 6.75m in width with 2m footpaths and 2 points of access
- Future residents would use Westminster Drive as a main route to the A444 thus increasing traffic
- Plots 691 and 694 require access across a private road and 694 has paths that access onto this road
- Developers have not consulted existing residents
- Developers stated that there would be no additional traffic on the private road
- Public rights of way have been ignored
- Hope Way cannot take extra traffic as it is too narrow
- Speed bumps should be installed on Westminster Drive
- There would be a devaluation of properties on Westminster Drive
- Alternative accesses should be considered
- Residents were told that plots 502-521 were owned by the National Forest and no dwellings could be built and it would be maintained as a woodland walkway to the balancing lagoon
- Westminster Drive has an on-street parking problem
- It is unclear what is proposed as boundary treatment to the rear of 34 Swadlincote Lane
- Proposed properties are not in keeping with Swadlincote Lane

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: Policies 2, 3, 12, 14, 26 and 48.

Local Plan: Housing Policy 2, Housing Policy 11, Environment Policy 10, Transport Policy 6, Transport Policy 8, Recreation and Tourism Policies 4 and 8.

National Guidance

PPS 1, PPS3, PPG13, PPG17.

Planning Considerations

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

- The principle of the development
- Residential amenity
- Appearance and Burton Road streetscene
- Landscaping and Public Open Space
- Highways issues
- Other issues mentioned by objectors

Planning Assessment

Principle of Development

The principle of residential development on this land was established in the granting of outline consent in 2000 (9/0890/515). This is the final phase of the overall development and only details in terms of the appearance, layout and scale can be considered at this stage. The access and landscaping were agreed as part of the outline permission.

Residential Amenity

Firstly, in relation to the relationships between dwellings within the development a detailed assessment has been carried out to ensure that the Council's space standards and relationships which have been agreed on other phases have been met. The amended plans include some changes to distances that were considered substandard and the amended layout is considered acceptable in this regard. The orientation of properties and distances between them has ensured that private rear garden areas are not substantially overlooked.

Secondly, in relation to the impact on the amenity of existing properties on Swadlincote Lane, amendments have been sought to improve the relationships and increase the distances between the properties. Land levels of the existing properties and the adjacent proposed properties were requested due to the sloping nature of the site.

A distance of 30m from the rear of the proposed properties and the rear elevations of properties on Swadlincote Lane has been maintained to protect privacy. The window to window distances would vary to between 30 – 40 metres which is well in excess of the 21m standard. No.72 Burton Road is a bungalow that has five windows on its side elevation adjacent to the site. The majority of these windows are secondary; however, there is a bedroom window on this side. A distance of 18m has been achieved between the nearest proposed dwelling in order to meet the Council's space standards. Plots 383 and 341 have been moved further away from Burton Road and the boundary with No.72 Burton Road to reduce their impact on this property and to improve their appearance in the streetscene. The position of these dwellings is now considered acceptable.

In relation to land levels of the proposed properties along the boundary with existing properties on Swadlincote Lane, the majority are slightly higher (between 500mm – 700mm) which is not considered significant and would not reduce the privacy of these properties when taking into account the distance of around 30 m between the properties. Proposed properties to the rear of 72 Burton Road would be 2.4 -1.8m higher than the land level of the property. However, this follows the existing slope from Burton Road and would be at a distance of 25m and is therefore considered acceptable

as it meets the SPG standard. Plots 619 – 626 proposed along the southern boundary of this property reduce in height towards Burton Road and therefore towards the rear of the property are 540mm higher and reduce to 1.6m lower than 72 Burton Road, adjacent to Burton Road. This is considered an acceptable relationship.

No's 44, 50, 48, 44 Burton Road are in the centre of the sites frontage onto Burton Road and thus would be surrounded by the proposed properties. A distance of 10 -11 metres is maintained adjacent to the boundaries with these properties and main aspect distances are between 38 - 40m. Plots 601 and 577 are nearest to these existing dwellings and each has a side elevation adjacent to the boundaries which have small bathroom windows on the first floors. The relationship with these existing properties is considered acceptable.

Adjacent to 52 Burton Road the proposed properties slab levels increase to the north east along the side boundary of the property from 200mm – 2.2m higher than the property. This follows the existing slope of the site and that of the existing property's 30 m rear garden. Proposed properties to the rear of these existing dwellings on Burton Road vary in slab level from 1.2 – 1.7m higher at a distance of 38 – 40 m. The nearest proposed property to the side of 44 Burton Road would be 1.26m lower than this dwelling.

In order to protect the amenities of these existing properties in the future permitted development rights for extensions on some plots should be removed by condition.

Appearance and Burton Road Streetscene

Seventeen of the thirty one proposed house types have been previously been approved on other phases of the development. A good mix of dwellings is proposed and the size and design is considered compatible and in keeping with that of the previous phases. A mixture of brick detailing, arched lintels, door frames and canopies, balconies and bay windows serve to add variety. The use of the three storey properties to frame the focal open space and main estate roads together with two and half storey properties with dormers serves to add interest to the internal streetscenes. Overall the design of the dwellings is considered to be high quality in accordance with national and regional guidance and the standard that has already been set on the wider site.

Along the Burton Road frontage the proposed properties maintain slab levels similar to the existing properties 44 - 52 Burton Road. The distance from the road is also similar and the majority of the proposed properties have their main elevations facing the road. The mass is broken up in sections by an internal road and the footpath/cycleway link. The site is approximately 2m higher than the road level and there is an existing 1m high hedge along the boundary which shall be retained by condition. It is acknowledged that the streetscene in this area of Burton Road would change significantly, however, considering the land levels and proposed properties only being two storey detached properties similar to existing properties they would not appear overly dominant or unexpected. Their impact could also be reduced further by careful consideration of the external materials, which shall be dealt with by condition.

Landscaping and public open space

The principle of the landscaping layout was agreed at outline stage and the size and location of the areas of public open space is compatible with this layout and that of the development masterplan. Tree lined footpaths/ cycleways have been incorporated and provide sufficiently overlooked focal points. The boundary treatments for the areas of

public open space and footpath/cycleways are open railings which ensure their security. The landscape strip, referred to by the Crime Design Advisor, forms a ditch and is thus not able to be sectioned off into amenity spaces. However, the area and the communal parking is considered to be significantly overlooked by the proposed properties and previously approved properties to provide natural surveillance and a condition relating to crime prevention measures should also help.

The amount of woodland planting and public open space was stipulated in the outline application's Section 106 together with their locations in relation to the Masterplan. A detailed soft landscaping plan can be required by condition. The hedge along the Burton Road boundary would be retained as part of this scheme.

Highways issues

An amended layout has been received which incorporates most of the changes requested by the Highways Authority and is very similar to details previously approved on recent phases. The proposed development is to be accessed from both Swadlincote Lane and Westminster Drive. The principle of obtaining access from Westminster Drive was granted in 2000 in the outline permission. Westminster Drive has thus been designed to provide access to the development and on the advice of the County Highway Authority is of sufficient width to do so. Under the latest amendment Public Footpath 39 would not require diverting but Footpath 40 would be mainly diverted via special new footpath/cycleways prior to the commencement of development (although this requires a separate authorisation).

Other issues raised by objectors

The majority of objections were received from properties within the Castleton Park development and only two letters were received from existing established properties on Burton Road and Swadlincote Lane. The provision of shops, medical centre and school for the overall development was considered at outline stage and as such is detailed within the Section 106 agreement. The access for plots 691 and 694 has been amended and would no longer be accessed by a private drive. The area where plots 502 – 521 are proposed was included in the development principle plan for the outline permission and thus was not proposed as part of the woodland walkway. However, a footpath/cycleway runs along the south eastern boundary alongside the woodland buffer zone as originally envisaged and links to the balancing lagoon to the south.

All boundary treatments and retention of hedging would be controlled by conditions. The applicants are aware of the existence of protected species on adjacent land to the south of the site and the need for any appropriate licences.

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 approval of details subject to the following conditions:

1. Notwithstanding the originally submitted details, this approval shall relate to the amended layout drawing no. S0000_100_01 Rev F.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
2. Before any other operations are commenced (excluding site clearance), space shall be provided within the site curtilage for storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority, and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.
Reason: To ensure the free flow of traffic on the adjoining highway.
3. Before any of the operations hereby approved are commenced, facilities shall be provided as agreed in writing with the Local Planning Authority to prevent the deposition of extraneous material on the public highway and shall be maintained throughout the construction period of the development.
Reason: In the interests of highway safety.
4. No dwelling shall be occupied until the estate road serving the dwelling has been constructed to base level in accordance with the County Council's specification for new housing development roads.
Reason: To ensure that each dwelling is afforded access.
5. The proposed private vehicular access driveways shall be surfaced with a solid, bound material (i.e. not loose chippings) prior to the occupation of the dwelling to which they relate.
Reason: To prevent the deposition of extraneous material on the public highway in the interests of highway safety.
6. Dwellings shall not be occupied until space has been provided in accordance with the approved application drawings for the parking for residents and visitors, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use. Garages & parking spaces shall be kept available for the parking of motor vehicles at all times, and shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter, unless otherwise agreed in writing.
Reason: To ensure that adequate parking/garaging provision is available.
7. 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.
8. 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 (including the retention of the hedge on the frontage of Burton Road), together with measures for their protection in the course of development.

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

9. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

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

10. 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.

11. Prior to the commencement of the development hereby approved full details of the proposed bin stores and the materials for surfacing the bin collection areas shall be submitted to and approved in writing by the local planning authority. The bin stores and collection areas shall be provided in accordance with the agreed details prior to occupation of the relevant dwellings.

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

12. 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.

13. 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.

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

- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

- 15. The Footpath/Cycleway/Greenway/public open space shall be landscaped, hard surfaced and opened for public access prior to the occupation of the 50th dwelling on this phase unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of permeable public access across the site.

- 16. Prior to the commencement of development, a landscaping scheme (including an implementation plan) for the affected length of Swadlincote Lane so as to ensure that the route is not physically accessible by vehicular traffic, shall be submitted to and approved in writing by the Planning Authority.

Reason: In the interests of highway safety.

- 17. The footpath/cycleway link where it meets Burton Road shall have a gradient of 1:20.

Reason : In the interest of cycling and highway safety.

- 18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings on plots 577, 587, 600, 601, 619, 621, 623, 632, 633, 642, 643, 644, and 645 hereby permitted shall be not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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 the street scene.

Informatives:

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.

Further to the comments above relating to rights of way the County Highways Authority advise that the layout affects the route of definitive public right of way footpath no. 40, as shown on the definitive plan. The Footpath will need to be diverted prior to works commencing.

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.

For the discharge of the site investigation, as a minimum, the report should include:

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

Further guidance can be obtained from the following:

- I. Model Procedures for the Management of Land Contamination CLR 11
 - II. CLR Guidance notes on Soil Guideline Values, DEFRA and EA
 - III. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
 - IV. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
 - V. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
 - VI. Guidance for the Safe Development of Housing on Land Affected by Contamination' Environment Agency. ISBN 0113101775.
- C:\Scp\Planning\Gis\DNPD66.DOC Soil contamination or the potential for it is a material planning consideration and must

be taken into account by a local planning authority in the determination of a planning application. This site is suspected to be contaminated with chemicals associated with farming. The responsibilities for providing information on whether and how a site is contaminated rests with the developer, as does the subsequent safe development and secure occupancy of the site. Under these circumstances, you should undertake a site investigation and submit the results and remediation proposals as part of the planning application.

If a reclamation strategy is submitted and agreed by the planning authority compliance with it will be condition of any subsequent approval.

The developer will also be required to sign a completion certificate confirming that the works of reclamation have been carried out in accordance with the agreed strategy.

This permission is subject to conditions on the outline planning permission approved under the Council's reference 9/0890/0515/O and to the agreement under Section 106 of the Town and Country Planning Act 1990 that accompanied that permission.

The Water Industry Act requires that there shall be no building over any public sewer crossing the site without the express consent of the Regional Water Company. You are asked to contact Severn Trent Water with regard to ensuring adequate protection/room for maintenance of the sewer.

The proposed layout requires the permanent closure to vehicular traffic of Swadlincote Lane adjacent plot 677. A Prohibition of Driving Order under the Town and County Planning Act must be carried out and completed prior to the commencement of development in the vicinity.

Item **1.4**

Reg. No. **9/2009/0242/FH**

Applicant:

Mr John Harrison
55 Penn Lane
Melbourne
Derby

Agent:

D P O'Malley
11A The Stableyard Studios
Finnebrogue Road
Downpartick
Down
N Ireland

Proposal: **The erection of an extension and internal alterations at
55 Penn Lane Melbourne Derby**

Ward: **Melbourne**

Valid Date: **24/04/2009**

Reason for committee determination

The applicant is the local councillor for the Melbourne Ward.

Note

This is a combined report that includes the issues relating to both the planning application and the associated application for Listed Building Consent.

Site Description

55 Penn Lane is one in a row formerly consisting of five terraced 19th Century Grade II listed houses – 55 Penn Lane has since been combined with no. 57 to form one property. The site is within the Melbourne Conservation Area.

Proposal

Planning permission and listed building consent is sought for a single storey rear extension with a pitched roof to form a new kitchen. The listed building consent (9/2009/0243/L) covers the internal alterations to the ground floor of the existing dwelling house to accommodate a new shower room in place of the original kitchen and a new opening to the original dining room.

Applicants' supporting information

The Agent has submitted a combined Heritage and Design and Access Statement that includes the following assessment of the proposals: -

9/2009/0242 & 243 - 55 Penn Lane, Melbourne, DE73 8EQ



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Location/Background:

The property, being originally 2 properties combined into one in the mid 20th Century, is part of a terrace in the Penn Lane Conservation Area. The property has been extensively altered in the past and few original features remain internally. Although it is now one property, two front doors remain with only one being functional.

Existing Form/Materials:

External walls are coursed local stone with brick chimneys and decorative stone door surrounds. The roof is natural slate and rainwater goods are a mix of PVC and cast/extruded metal work. The front doors are panelled painted timber and rear doors are modern ledged, braced and battened with a paint finish. The windows to the front elevation are painted top opening casements in a sliding sash style, rear windows are painted top and side hung opening casements. Two timber clad dormer windows in the rear roof slope provide light to the second floor rooms.

Proposals:

The existing ground floor layout is poorly conceived, with the kitchen being inadequate for the applicant's needs and no ground floor toilet facilities. The proposal seeks to reorganise the existing ground floor layout to provide a combined WC/shower room with the kitchen being relocated into the proposed new single storey extension. No work is proposed to the front elevation or the internal layout on the first and second floor levels.

The proposed extension will be built and detailed as follows:

- Terca bricks in a mix of 70% Renaissance and 30% Kassandra;
- A simple pitched roof in reclaimed Staffordshire blue clay tiles;
- The proposed eaves will be corbelled brickwork;
- Rainwater goods throughout the property will be cast metal in a black paint finish;
- The proposed double doors in the proposed extension will have a natural stone lintel;
- Soil and vent pipe to be located internally and vented via a vent tile close to the roof ridge;
- One low profile "Velux" (GVA or GVT range) conservation style rooflight is proposed on the east side of the extension roof;
- New doors will have single glazed vision panels and will be painted timber;
- New windows are to be single glazed side hung opening casements in treated timber to match the existing;
- The existing sills of the first floor windows will not be affected by the extension roof;
- New hardstanding areas to the rear garden will be in natural stone to the local authority approval; and
- All boundary treatments remain as existing.

Disability Access:

The proposal will provide a dwelling where all the ground floor facilities are suitable for disabled/wheelchair use. The front elevation of the listed building will remain unaltered and it is proposed to provide suitable disabled access via the new rear extension. Access to the rear of the property is through an existing pedestrian passageway

between no's 52 and 55, which is 900mm wide with a level surface suitable for wheelchairs. Access to the garden is gained via a 1000mm wide gate with a new 1350mm wide path incorporating a slight ramp (gradient 1:15) leading from the passageway to the proposed terrace/patio area. The proposed double doors to the extension will have suitable wheelchair access into the kitchen from the patio area. Internal doors have a minimum width of 900mm enabling wheelchair access throughout the proposed and existing ground floor layout. The new 1400mm hallway will provide suitable access to the proposed WC/shower room and all ground floor rooms.

Planning History

An application to convert the row of cottages to form one house was received 1967 and deemed to be permitted development. A further application to convert the then single property into 2 dwellings was permitted in 1971. Listed Building Consent was given in 1985 to install two new doorways and windows and to enlarge the rear dormer windows. Planning permission and Listed Building Consent was granted in 1991 to retain a 1.8m high fence and 1.27m brick and stone wall. There are no further applications received for the site since this date.

Responses to Consultations

Melbourne Civic Society has raised no objections. Having had pre-application discussions, the Heritage Officer has raised no objection subject to the inclusion of conditions.

No other responses have been received as a result of the statutory consultations.

Responses to Publicity

There have been no responses received in relation to publicity.

Development Plan Policies

The relevant policies are:

RPG: Policy 27

Local Plan: Environment Policies 12 and 13, Housing Policy 13

National Guidance

PPG 15

Planning Considerations

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

- The impact of the proposals on the historic fabric, character and setting of the Grade II listed property;
- The impact of the proposals on the character and appearance of the conservation area; and
- The impact of the proposals on the amenities of the neighbouring properties.

Planning Assessment

The proposed external and internal works conform to the above-mentioned policies and Supplementary Planning Guidance “Extending your Home”.

The proposals were subject to pre-application advice from the Heritage Officer and the scheme is all as discussed and expected.

Due to the numerous reconstructions over the years, the interior of the building is no longer of any special interest. The main interest to the rear elevation lies in the original, regular arrangement of door and window openings within the stone wall. However, the principle of allowing a rear extension has already been set by a previous extension on the same row and it would be inconsistent to resist the present application on those grounds. The scheme has been sympathetically designed to have minimal intervention with the existing historic fabric and the Heritage Officer has raised no objection subject to the inclusion of conditions.

The proposed works, both internal and external, would not adversely affect the historic fabric, character or setting of the Grade II listed building.

There is minimal impact on the character and appearance of the conservation area due to the extension being single story and it being in a secluded position to the rear of the property.

The proposed rear extension would not adversely affect the amenities of the neighbouring properties.

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. A sample of the reclaimed Staffordshire blue clay roofing tile shall be submitted to and approved in writing by the Local Planning Authority before use on the roof.
Reason: In the interests of the appearance of the building(s) and the character of the area.
3. Large scale 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 building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

4. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

5. 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.

6. 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 building(s), and the character of the area.

7. Pointing of the proposed extension 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 building(s).

8. A sample panel of pointed brickwork 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 building(s) and the locality generally.

Item **1.5**

Reg. No. **9/2009/0243/L**

Applicant:

Mr John Harrison
55 Penn Lane
Melbourne
Derby

Agent:

D P O'Malley
11A The Stableyard Studios
Finnebrogue Road
Downpartick
Down
N Ireland

Proposal: **The erection of an extension and internal alterations at
55 Penn Lane Melbourne Derby**

Ward: **Melbourne**

Valid Date: **23/04/2009**

Reason for committee determination

The applicant is the local councillor for the Melbourne Ward.

Note

The issues for this item are considered in the report relating to planning application reference 9/2009/0242.

Recommendation

GRANT Listed Building Consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
2. A sample of the reclaimed Staffordshire blue clay roofing tile shall be submitted to and approved in writing by the Local Planning Authority before use on the roof.

Reason: In the interests of the appearance of the building(s) and the character of the area.
3. Large scale 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 building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

4. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

5. 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.

6. 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 building(s), and the character of the area.

7. Pointing of the proposed extension 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 building(s).

8. A sample panel of pointed brickwork 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 building(s) and the locality generally.

Item **1.6**

Reg. No. **9/2009/0287/NO**

Applicant:

Mr Naushad Chaudhary
Parkgate Service Station
Burton Road
Midway
Swadlincote

Agent:

Mr David Raybould
Newton Fallowell
Bretby Villa
Midland Road
Swadlincote

Proposal: **The raising of the forecourt canopy at Parkgate Service
Station Burton Road Midway Swadlincote**

Ward: **Newhall**

Valid Date: **22/04/2009**

Reason for committee determination

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

Site Description

The application site is on the corner of Wood Lane and Ashby Road East in Midway. The service station that occupies the site comprises of a flat roof kiosk building, car wash and the canopy over the fuel pumps. The Grade II Listed Parkgate Farm is to the south west and this property has an outbuilding along the boundary with the service station. The Chesterfield Arms public house is opposite over Wood Lane to the north west. To the north east over the road are open fields and to the south and south east are detached residential properties.

Proposal

Retrospective planning permission is sought for the raising of the existing forecourt canopy by approximately 850mm.

Applicants' supporting information

The Design and Access Statement explains that as the site is located on a major trunk road, a number of commercial vehicles call at the site and the higher vehicles have been damaging the canopy on a regular basis. The increase in height of the canopy allows these higher vehicles to access the site without causing damage or disruption of the property and traffic on the main road, reduce the chance of injury to drivers of these vehicles, other drivers and service station staff.

9/2009/0287 - Parkgate Service Station, Burton Road, Midway, DE11 0DN



Planning History

No recent cases are relevant to the current application.

Responses to Consultations

The Design and Conservation Officer considers that although the canopy has been raised by 850 mm there are only a few places where it can be seen in context with the setting of Grade II listed Parkgate Farm House and its outbuildings. The canopy can be seen from the main Wood Lane entrance to the farm, above the single storey element of the outbuildings, which lie to the northeast of the main listed farmhouse. The canopy's shabby appearance and bright colour draws attention to it but its visibility could be reduced by painting the two sides that are visible from the listed building side a recessive colour (e.g. grey, or a colour that would blend in with the roofs of the ancillary barns).

The proposal would not adversely affect the setting of the Grade II listed Parkgate Farm House provided the canopy is painted a recessive colour. A condition to that effect is recommended.

Responses to Publicity

One letter of objection has been received from a neighbour stating the following:

- The canopy is now much more visible from their home and garden
- The lighting under the canopy illuminates their garden
- Canopy is in a poor decorative state – half red/ half yellow
- There are notices on the pumps stating it is a cash only station which would not be suitable for HGV's
- The station is open everyday including Sundays and Bank Holidays which is not what it stated on the application form
- The car wash is not in use and now used for cleaning cars
- The jet wash poles have been extended and spray comes over their fence
- Red signage has been erected which is visible above their fence
- The applicant sells cars from the premises
- Overshadows property
- Loss of view

Development Plan Policies

The relevant policies are:

East Midland Regional Plan: 27

Local Plan: EV10, EV13

National Guidance

PPS1; PPS15.

Planning Considerations

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

- The impact on the character of the Grade II Listed Park Gate Farm

- Visual impact
- Residential amenity

Planning Assessment

The service station is an established use on the site with a planning history since the 1980's and the canopy is likely to have been erected from this time. On the advice of the Design and Conservation Officer, the raising of the canopy by 850mm is not considered to have a significant impact on Parkgate Farm as it is only visible in places on Wood Lane within the context of this Listed Building and associated outbuildings. The canopy's colour accentuates its appearance adjacent to the Parkgate buildings and painting the canopy a recessive colour can reduce this significantly. This can be controlled by condition.

The applicant has confirmed that the service station is soon to become a Jet garage where the corporate colours are yellow. It is considered that as this application solely relates to the increase in height of the canopy and not the structure itself and it is already yellow in parts it would not be reasonable to require the whole structure to be painted grey. A condition which requires the sides of the canopy adjacent to the southern and south western boundaries be painted grey is considered reasonable due to these elevations of the canopy being viewed in context of the Listed Building when approaching the site travelling up Wood Lane.

The canopy is 14.5m from the neighbour to the rear therefore overshadowing of this property is not considered significant. In relation to light pollution, the canopy is 4.5m from the rear boundary of this property and the lights on the canopy have not been changed. The increase in height by 850mm is not considered to increase the light pollution significantly due to the distance from the property and its boundary.

The selling of cars was in evidence when carrying out site visits and this has been passed to the enforcement section, as it is a sui-generis use which requires planning permission. The original permission for the service station appears to be pre-1974 and thus no planning history exists. Hours of opening are therefore not controlled.

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

Recommendation

GRANT permission subject to the following conditions:

1. Within 1 month of this permission the southern and south western sides of the canopy shall be painted grey in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and setting of the adjacent Listed Building.

Informative:

The selling of motor vehicles from the premises requires planning permission and either the sale should cease or a planning application be made.

Item **1.7**

Reg. No. **9/2009/0311/L**

Applicant:

Mr Philip Heath
43 Blanchcroft
Melbourne
Derby

Agent:

Mr Philip Heath
43 Blanchcroft
Melbourne
Derby

Proposal: **The repair and minor alteration of outbuildings
occasioned by removal of sycamore tree at 45
Blanchcroft Melbourne Derby**

Ward: **Melbourne**

Valid Date: **15/05/2009**

Reason for committee determination

The applicant is a member of staff.

Site Description

The buildings comprise a privy and a former pigsty building being situated within the curtilage of the Grade II listed 43-57 (odd) Blanch Croft. The buildings make up part of the rear boundary to the public car park at the end of the garden. The buildings have been altered over the years and partially demolished, the roof in a poor state of repair. Due to the presence of the remaining stump of the sycamore tree, the rear wall is severely distorted

Proposal

It is proposed to remove the tree stump and roots and rebuild the walls as necessary, and reinstate and extend the roof over the privy building in matching materials.

Applicants' supporting information

A design and access/justification statement has been submitted detailing the reason for and extend of the works.

Planning History

The felling of the tree was authorised in 2007.

Responses to Consultations



South Derbyshire District Council. LA 100019461. 2009

The Melbourne Civic Society has no objection.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

Regional Plan: Policy 27.

Local Plan: Environment Policy 13.

National Guidance

PPG15.

Planning Considerations

The main issue central to the determination of this application is the impact on the listed building and the Melbourne Conservation Area.

Planning Assessment

National and local policy seeks to ensure that alterations to listed buildings do not have an adverse effect on the fabric or character of the building.

In this case the works proposed are relatively minor and would secure an improvement to these curtilage buildings (which are in some disrepair) and therefore an enhancement to the Melbourne Conservation Area.

Recommendation

GRANT Listed Building Consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.
Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
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. Pointing of the existing/ proposed building(s) 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 building(s).

4. 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.

5. A sample of the coping of the new wall shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

Item **2.1**

Reg. No. **9/2009/0290/U**

Applicant:

Mr Sam Ermolenko
70 Scropton Road
Hatton
Derby

Agent:

M. Blood
MAB Building Design
London Road
Manor Farm House
Shardlow

Proposal: **The change of use from garage to dwelling
(resubmission of scheme 9/2008/0957) at 70 Scropton
Road Hatton Derby**

Ward: **Hatton**

Valid Date: **29/04/2009**

Reason for committee determination

Councillor Mrs Brown has asked that the application be brought to Committee as local concern has been expressed about a particular issue.

Site Description

The garage is located on part of the former curtilage to 70 Scropton Road. It is enclosed on two sides by fencing on the third by a neighbour's garage and has an open frontage to the drive to the site. The ground within the application site is relatively level.

Proposal

The conversion of the garage to a two-bedroom bungalow is proposed. Parking for two cars would take place on the frontage, with an area of garden to the front and side. Since submission the application has been amended to raise the height of the eaves by two brick courses and amend the side and rear elevation to reduce the size of the windows to make them high level and to insert rooflights within the bedrooms. The latter amendment has been necessary to overcome problems of overlooking that arose from raising the finished floor level.

Applicants' supporting information

A Design and Access Statement and a Flood Risk Assessment accompany the application. The design of the building has been driven by the requirements of the flood risk assessment that states that the finished floor level of the building should be raised



by 300mm. The applicant has reassessed the floor level in relation to the windows and the amended scheme has been submitted.

The applicant identifies that the site lies within the established village confines and that the conversion of the garage to a bungalow would be in accord with policy. There is sufficient space to accommodate the residential use without compromising the amenity of neighbours through overlooking and overshadowing. Parking provision is adequate to serve the proposed dwelling it would have a gravel finish to soften its impact and the remaining grounds would be landscaped with a 1.8 metre high brick wall separating the parking provision from the rest of the garden area. The development would provide a satisfactory level of accommodation for the occupants of the new dwelling.

Access would be from the existing drive that serves 70a and the applicants existing business.

The flood risk assessment recommends a finished floor level of 54.41 that is at the same level as 70 A Scropton Road. Current site level at the front of the garage is 54.10 (*This information is derived from a levels survey within the FRA.*)

The applicants have also stated that the application may have been permitted last year but for the need for a flood risk assessment. Although the FRA recommends raising floor levels the scheme is essentially identical to the one that may have been permitted and the issues of overlooking have been addressed by the recently submitted amendments. The high level windows are not ideal but they only serve bedrooms where residents do not need an outlook but the windows would provide an acceptable level of ventilation. The dwelling would provide affordable housing in the village that is being encouraged by the Council. Should the application be refused then an appeal will be made.

Planning History

In 1989 planning permission was granted for a bungalow on the land rear of 70 Scropton Road, details approved in 1990 (Now 70a Scropton Road). Also in 1990, permission was granted for a garage and workshop and the extension of 70 Scropton Road. In 1993 permission was granted for a workshop and further extensions to No 70. In 1998, permission was granted for the retention of the use of outbuildings as a motorcycle maintenance workshop. In 2004 permission was granted for the erection of 2 dwellings on site of the workshops – this permission expires this year. An application to convert this garage to a dwelling was withdrawn pending the completion of a Flood Risk Assessment. The garage was originally erected as permitted development under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

Responses to Consultations

Hatton Parish Council objects to the development for the following reasons:

- a) There is already permission for two dwellings in the grounds of the business on this site and together with the other houses would result in 5 dwellings being served off a narrow drive should this and the permitted dwellings be constructed. It is understood that vehicles have been seen reversing onto Scropton Road.
- b) There appears to be insufficient parking provision on the site.

- c) The Flood Risk Assessment appears to have numerous errors in it. For instance it states that minimal flooding of the site occurred in 2000 whereas severe flooding to a depth of 0.8m (2ft) took place; it also states that Hatton Parish Council land was not flooded when in fact it was.
- d) It is contended that the application plan shows the boundary as including Parish Council land and also part of the neighbouring property.
- e) Surface water disposal would be via a soak away but there would appear to be no suitable area in which to put one.
- f) This application states that the land is not contaminated; a previous application stated that it was.

The County Highway Authority has no objection subject to the imposition of conditions.

The Environment Agency comments will be reported at the meeting. If there is an objection to the development then there may be an additional reason for refusal.

Severn Trent Water has no objection.

Responses to Publicity

A total of 8 letters from 6 households have been received in response to

- a) Committee and not a single officer should determine the application.
- b) A basic question is, if a freestanding bungalow would not be permitted in the first place, then this change of use should not be permitted. The applicant seems to have built the garage with the express intention of using it as a dwelling.
- c) The existing building overshadows neighbouring gardens, adding to the height would add to this.
- d) The foul sewer is inadequate to take more flows and surface water is being allowed to flow into the foul sewer
- e) The development would result in overlooking of adjacent bungalows and loss of privacy.
- f) Raising the roof height may make room living accommodation in the roof.
- g) The original garage was built to a very high specification and seemed over the top to house vehicles.
- h) The stated materials of construction are wrong; this is primarily built in block work.
- i) The access to the site is inadequate particularly as there is permission for two more dwellings on the site. Other housing proposals on Scropton Road have been refused on the grounds of inadequate access.
- j) The Committee should visit the site to appreciate the extent of the overdevelopment that would result; it would be able to note that the proposed dwelling would be visible from the road.
- k) The site flooded badly in 2000 the same figures for flood depth as quoted by the Parish Council are stipulated in the letter; there is concern that neighbouring properties could be flooded if soak aways are used.
- l) The application site plan seems to include a neighbour's property and the photograph accompanying the application exaggerates the size of the site.
- m) The garage is very close to the neighbouring garage and to the boundary; it would be impossible to erect a boundary fence between the two structures.

Development Plan Policies

The relevant policies are:

RSS8: Policies 1, 2, 3 & 12

Saved Local Plan: Housing Policies 5 & 11

National and other Guidance

PPS 1 and 3

Supplementary Planning Guidance – Housing Layout and Design

Planning Considerations

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

- The Development Plan including national advice and local guidance
- Impact on neighbours
- Access
- Flooding
- Other material considerations.

Planning Assessment

Housing Policies 5 and 11 of the adopted South Derbyshire Local Plan make provision for housing development in villages provided that the development is in keeping with the scale and character of the settlement and that development provides a reasonable environment in terms of light, air and privacy for both existing and proposed dwellings. This is also expressed in the Council's adopted Supplementary Planning Guidance - Housing Layout and Design. Paragraphs 33 to 39 of PPS 1 set design principles that not only refer to large schemes but also apply equally to individual dwellings. This states as a basic principle, that development should provide its occupants with an attractive internal and external environment.

The building was constructed as a garage to serve 70 Scropton Road and has now been separated from that dwelling. The proposed use as a bungalow has necessitated changes to the finished floor level to take account of flooding and this has a consequence of increasing the potential views out of the windows to and from neighbouring dwellings. Subsequent amendments have been submitted that mean the windows to the bedrooms are now proposed as obscure glazed and at high-level supplemented by roof lights.

This gives the development a contrived appearance that would represent a potentially unacceptable living environment for the occupiers of the dwelling. Whilst not unacceptable in itself, when combined with the curtilage being overlooked by adjacent dwellings, means that the development would not fit into its surroundings and would not provide its occupants with an attractive internal and external environment. This is contrary to the above-mentioned policies and advice as the development would not be of a scale and character in keeping with its surroundings that the policies require.

The amendments that have been submitted do address the problems of overlooking as expressed by the neighbours to the scheme. However for the reasons stated above the development is unacceptable.

On the advice of the County Highway Authority it would be difficult to sustain an objection on highway safety grounds.

If the Environment Agency objects on grounds of potential flooding as it is suggested there should be by objectors, then there may be an additional reason for 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

REFUSE permission for the following reason:

Housing Policies 5 and 11 of the adopted South Derbyshire Local Plan make provision for housing development in villages provided that the development is in keeping with the scale and character of the settlement and that development provides a reasonable environment in terms of light, air and privacy for both existing and proposed dwellings. This is also expressed in the Council's adopted Supplementary Planning Guidance - Housing Layout and Design. Paragraphs 33 to 39 of PPS 1 set design principles that not only refer to large schemes but also apply equally to individual dwellings. This states as a basic principle, that development should provide its occupants with an attractive internal and external environment. The building was constructed as a garage to serve 70 Scropton Road and has now been separated from that dwelling. The proposed use as a bungalow has necessitated changes to the finished floor level to take account of flooding and this has a consequence of increasing the potential views out of the windows to and from neighbouring dwellings. Subsequent amendments have been submitted that mean the windows to the bedrooms are now proposed as obscure glazed and at high-level supplemented by roof lights. This gives the development a contrived appearance that would represent a potentially unacceptable living environment for the occupiers of the dwelling. When combined with the curtilage being overlooked by adjacent dwellings, mean that the development would not fit into its surroundings and would not provide its occupants with an acceptable internal and external environment. This is contrary to the above mentioned policies and advice as the development would not be of a scale and character in keeping with its surroundings that the policies require.

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
9/2008/0816	Scropton	Scropton	Allowed	Delegated



Appeal Decision

Site visit made on 20 April 2009

by Stuart Hall BA(Hons) DipTP FRTPI MIHT

**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:
12 May 2009**

Appeal Ref: APP/F1040/A/09/2094534

The Old Hall, Main Street, Scropton, Derbyshire DE65 5PQ

- 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 Mark Peet against the decision of South Derbyshire District Council.
- The application (Ref 9/2008/0816/B), dated 24 July 2008, was refused by notice dated 1 October 2008.
- The development proposed is described as works to obtain vehicle access to the site and to change the use of the outbuilding from store to garage/store.

Decision

1. I allow the appeal and grant planning permission for a vehicle access at The Old Hall, Main Street, Scropton, Derbyshire DE65 5PQ in accordance with the terms of the application Ref. 9/2008/0816/B dated 24 July 2008, and the plans submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) No development shall commence until details of the construction, layout and surface materials of the proposed access have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 3) No gate or other obstruction to the free passage of vehicles shall be placed across the proposed driveway within 5 metres of the highway boundary, and any gate or other obstruction shall not be erected in a manner which would enable it to be opened towards the highway.

Procedural Matters

2. The Council considered the application on the basis that it sought removal of condition 4 of planning permission 9/2007/0387/FH, which relates to extensions and alterations to the appeal property. That condition prevents use of the approved garage space for the parking of motor vehicles in the interest of highway safety, there being no vehicular access to the site. However, the main element of the appeal application is the proposed construction of a vehicle access which, if constructed, would appear to overcome the reason for condition 4.
3. Though the appeal application also refers to the change of use of the outbuilding, from my unaccompanied site visit I could not establish that the building exists. If it does not, then there can be no proposed change of use before me. However, condition 4 is not absolute in its effect, in that it allows

for the possibility of the Council giving written agreement to use the garage space for the parking of vehicles, albeit in undefined circumstances.

4. These matters lead me to conclude that I should treat the case as an application for planning permission for the construction of a vehicle access. The terms of condition 4 of planning permission 9/2007/0387/FH provide a means by which use of the proposed outbuilding can be reconsidered in the light of my decision, without recourse at first instance to further appeal. Though there are no submissions before me as to conditions, I am satisfied that the ones I have applied will not prejudice the interests of any party to the appeal.

Reasons

5. The appeal site lies within a continuous development frontage some 30 metres (m) from a marked bend in the road. Other properties nearby have individual vehicle accesses, and at the time of my visit, in late morning, the only vehicle parked on the road in the vicinity was parked outside the site. Parking restrictions are not in force. There are footways of adequate width on each side of the carriageway. During my visit, the 30 mph speed restriction was largely observed by the low volume of passing traffic.
6. The main issue in this appeal is the effect of the proposed access on the interests of highway safety. Local highway authority (lha) evidence concerning sight line requirements at the nearby development at Hawthorne Farm undermines the appellant's assertion that adequate visibility to the left of the proposed access has been secured. Further, I am not persuaded that private covenants can be relied on, as the appellant asserts, to safeguard visibility over land not in his control. Accordingly, and taking account of what I saw at my site visit, I find that lha evidence provides a reliable basis for my assessment of the scheme.
7. Having regard to advice published in *Manual for Streets (MfS)*, I consider it reasonable in this case to measure visibility from a point 2 m from the carriageway edge. It is common ground that from that point there is adequate visibility to the right. To the left, I favour the lha view that only some 15 m is available over controlled land and around 39 m measured across currently unobstructed front garden land. *MfS* advises that in dry conditions on this level road a driver observing the speed restriction is likely to require around 43 m sight stopping distance.
8. A 15 m sight line is unacceptably below the required standard. However, the safety interests of adjoining occupiers give them the incentive to maintain visibility across their frontages. Accordingly, I make due allowance for the probability that substantially better visibility would be available at the appeal site. A vehicle parked on the street at this point severely restricts visibility to the right for occupiers of the adjacent Westview Cottage, and is a hazard to road safety. It is not, as some representations suggest, an effective traffic calming measure. Scope for the appellant to park elsewhere on the street is limited by the presence of several dropped kerbs nearby.
9. The submitted plans show that there is room within the appeal site for a vehicle to be turned so that it could enter and leave in a forward gear. In my view, a driver is likely to have visibility to the left not substantially short of the *MfS*

recommended distance. I also attach substantial weight to the strong though not unanimous support for the proposal from local people who, in the light of their detailed knowledge of local traffic conditions, consider it would be safer than existing circumstances. Accordingly, whilst recognising that standard visibility requirements cannot be fully secured, I conclude on this main issue that the scheme would not cause material harm to the interests of highway safety.

10. I have had regard to representations that the proposal would have an adverse effect on the setting, and possibly the structure, of The Old Hall, which is a Grade II Listed Building. However, a driveway to the side of the building already exists, and the construction of a vehicle crossing in the footway will have no material effect on the building's setting. There is more than sufficient width for a vehicle to pass the building, so that its structure would be at negligible risk of collision. There is no evidence to support concerns that vehicle movements on the site would cause disturbance to neighbours, and the proposal is supported by occupiers of adjoining properties on each side.
11. It follows from my conclusions on the main issue and on other matters raised that the appeal should succeed. I have applied planning conditions in the light of advice in *Circular 11/95 The Use of Conditions in Planning Permissions*. As little information is given on the submitted plans, it is appropriate that the Council should retain further control over the detailed construction, layout and surfacing of the proposed access. Control over the erection of any gate will ensure that highway visibility is not unduly obstructed when vehicles enter the site.

Stuart Hall

INSPECTOR