

19/09/2006

Item 1.1**Reg. No.** 9/2006/0623/O**Applicant:**

J A Ball New Homes Ltd
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Stephenson Industrial Estate
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Leicestershire
LE67 3HE

Agent:

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Proposal: Outline application (all matters reserved except for means of access and siting) for residential development comprising three dwellings and a new vehicular access off Sycamore Avenue and the erection of a new garage to serve The Hall Lower Green Findern Derby

Ward: Willington/Findern

Valid Date: 25/05/2006

Reason for committee determination

The application is brought to the Committee for determination at the request of Councillor Mrs Hood and Councillor Ford who consider that considerable local concern has been expressed about a particular issue.

Site Description

The site is the garden to the Old Hall, a substantial Victorian house. The site is basically flat and the trees on the site are subject to a County Council Tree Preservation Order. The Old Hall lies in the northeast corner of the plot. There is an outbuilding adjacent to the paddock on the north boundary, which would be demolished if permission were granted. On the other side of the southern boundary is a public footpath. The Findern Church adjoins the site to the southwest, which together with the church boundary wall, is a listed building.

Proposal

The proposal involves two main elements:

- The formation of an access to the site from Sycamore Avenue
- The siting of three dwellings in the grounds (amended from four in the original submission).

Several elements of the final design are reserved for subsequent approval – design, materials of construction and means of enclosure. Other elements would require approval but would be the subject of separate conditions should permission be granted. Accordingly, the only issues for determination now are the principle of the development, the siting of the dwellings and the means of access to the site.

Applicants' supporting information

In the light of the tree preservation order, the applicants have submitted a report from a tree specialist which examines the site and makes recommendations. In the light of these and discussions with the County Council's tree specialist, the applicants revised the scheme showing three dwellings in the grounds. A further amendment was submitted following consultations with the Councils' Conservation Section that involve the retention of the access from The Green for pedestrians that will facilitate the 'avenue' entrance to the site that is associated with the Old Hall.

The applicants have given further consideration to the design of plot 1 and a design document has been submitted to guide the development of the detailed scheme. The basic principle will be that the plot looks inwards and to the south so that there are few window openings looking towards the adjacent dwelling and those that are would be obscure glazed.

The remaining two plots would be sited on the site of the former outbuilding adjacent to the paddock. The dwelling that has been omitted was located adjacent to the church boundary wall beneath the trees.

Planning History

There is no recent planning history associated with the site.

Responses to Consultations

Findern Parish Council has serious and fundamental objections to the proposed development:

- a) Additional traffic passing along Church Lane and Lower Green that are narrow is cause for real concern.
- b) Houses of this size are not necessary in this particular area that is one of the oldest parts of the village
- c) If the trees mentioned were part of a TPO, then the Parish Council would not want to see a repetition of the situation that occurred at The Longlands.

The County Highway Authority has no objection subject to the access to Sycamore Avenue being formed first in accordance with the application drawings and the dwellings not being occupied until the relevant parking space has been provided along with the manoeuvring areas.

The County Archaeologist notes the history associated with the Church and that by 1781 the boundaries of the churchyard had been established. However, the map of that date indicates that the church was in a different position within the yard and that the 1862 rebuilding of the church moved it to a more central location in the churchyard. Accordingly there may be below ground remains of the previous church. The proximity

of the development site to the church gives cause for some archaeological concerns and it is recommended that an investigation of the site be undertaken.

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

Following an objection to the original scheme, the County Council tree officer has raised no objection to the amended scheme subject to stringent conditions to protect the trees within the site.

The Council's Design and Conservation Officer has no objection to the amended scheme, as the removal of the forth dwelling would help to maintain the historic views between the church and the 'big' house.

The Environmental Protection Manager has no objection and states that the responsibility for ensuring that the site is fit for purpose rests with the developer.

Responses to Publicity

17 letters/e-mails have been received objecting to the development for the following reasons:

- a) The development is out of keeping with the Old Hall and the setting of the listed church. The houses are too close to the Hall that forms part of the setting of the church. There are enough homes of this type in the village – affordable homes are desperately needed.
- b) The access off Sycamore Close is ludicrous; there are numerous cars on Hazel Close using Sycamore Avenue additional traffic from the Hall would be disastrous. The additional traffic across The Green and past the shops already cause problems with congestion at peak times the additional traffic would add to these problems. It would be more acceptable if plot 1 were to be omitted and the access taken off Lower Green. There is no footpath on Commonpiece Lane and the increase in traffic could cause problems for persons attending the Methodist Church on the Lane. Children play at the end of Sycamore Avenue and the new access would remove a valuable area as well as an overspill parking area.
- c) There would be the loss of mature trees in the garden.
- d) The houses would be too tall at 2½ stories and would overbear on the footpath and the houses around it. The development should be in accord with the Councils Guidance on Housing layout and design. It would be a sad loss if this intrusive development were allowed to proceed. 4 dwellings is overdevelopment of the site
- e) Any archaeological remains should be investigated before development is commenced. It is alleged that there is a tunnel linking the site to the Church.
- f) The drainage system is not sufficient to take the additional flows.

Development Plan Policies

The relevant policies are:

RSS8: P20

Joint Structure Plan: General Development Strategy Policy 1 & 2, Housing Policy 5.

Environment Policy 10, 12 & 16

Local Plan: Housing Policy 5, Environment Policy 9, 13, & 14.

Planning Considerations

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

- The principle of residential development
- Access
- Siting and impact on neighbours
- Trees
- Archaeology and the historic context of the development

Planning Assessment

The Development Plan makes provision for the erection of dwellings in locations where there are a full range of services available. Findern is such a location and the principle of residential development is acceptable. The question then is to consider whether there are grounds for refusing the application for other reasons such as those suggested by the Parish Council and objectors in the light of responses from consultees.

One of the major concerns raised is the access to the site proposed from Sycamore Avenue and the knock on effects on the local highway network. The County Highway Authority has raised no objection to the creation of additional dwellings on the site or to the formation of an access to Sycamore Avenue. The proposed access accords with the County Highway Authority standards and the access would function satisfactorily. The Parish Council and residents consider that the additional traffic would adversely affect highway safety on Lower Green, Commonpiece Lane and on the Green itself. More traffic would be generated by the development but this is not considered to be sufficient reason for the County Highway Authority to recommend refusal.

The siting of the dwellings is a matter for consideration at this time. As such all references to design and external appearance on the drawings are for illustrative purposes only. Plots 2 & 3 could be accommodated without significant impact on the adjacent dwellings. Depending on the detailed design, the dwelling shown on plot 1 may have an impact on neighbouring dwellings but this is a matter for consideration at a the reserved matters stage.

The trees on the site are protected by a Tree Preservation Order. As such, the County Council's Tree specialist's recommendation led to the scheme being reduced to three dwellings to avoid any adverse impact. There is a significant horse chestnut tree in the centre of the site and the remaining dwellings have been assessed to demonstrate that the tree would not unduly shade the dwellings. A tree protection zone has been identified and if permitted it is recommended that a condition be attached requiring the implementation of an approved Method Statement and Tree Protection Plan before the development is generally commenced.

The possibility of archaeological remains is confirmed by the County Archaeologist and he recommends that a condition be imposed requiring an archaeological survey be undertaken prior to the building works commencing. The Council's Design and Conservation Officer welcomes the removal of the proposed dwelling adjacent to the church wall, as this would preserve the historic views from the church to a major village house. The application has also been amended to save the drive from Lower Green as a pedestrian access to the site. This would mean that the drive is preserved intact and not subsumed into the gardens of adjacent dwellings.

Subject to attaching the various conditions below, the application is considered acceptable. The many issues raised regarding the design of the dwellings and therefore how they would impact upon neighbouring dwellings cannot be discussed here but for consideration at a later stage.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

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

2. Approval of the details of the design and external appearance of the buildings, landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 05_2086_05E received on 1 September 2006.

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

4. 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.

5. As part of the submission of the reserved matters required by condition 2 above, a scheme for the archaeological investigation of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be drawn up in accordance with a written scheme of investigation (WSI) submitted by the applicant and approved by the Development Control Archaeologist acting on behalf of the Local Planning Authority. No development shall take place until the approved scheme has been implemented and the results assessed.

Reason: In order that the archaeological significance of the site can be assessed prior to the commencement of building operations.

6. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of protected trees shall be fenced with chestnut pale fencing to a minimum height of one metre staked at 3 metre centres. The extent of the fencing shall be established in accordance with an Arboricultural Method Statement and Tree Protection Plan that shall have been submitted to and approved in writing by the Local Planning Authority. The AMS and TPP shall be produced in accordance with the guidance attached to this planning permission. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees from undue disturbance

7. Before any other operations are commenced, a new vehicular access shall be created to Sycamore Avenue in accordance with the application drawings, laid out, constructed and provided with visibility sight lines from a point 2.4 metre from the carriageway edge measuring along the centre line of the access for a distance of 70 metres in an easterly direction measuring along the nearside carriageway edge. The land in advance of the sight line shall be cleared on all obstructions to visibility greater than 1.0 metre in height relative to the nearside carriageway edge channel level.

Reason: In the interests of highway safety.

8. None of the dwellings hereby permitted shall be occupied until space has been provided within the application site in accordance with the application drawings for parking and manoeuvring of residents' vehicles. The areas shall be surfaced and retained available for their designated use free from any impediment to that use in perpetuity.

Reason: To ensure that adequate parking and manoeuvring space is available.

9. Notwithstanding the requirements of Condition 6 above, the permission hereby granted permits the formation of an access road within the identified tree protection zone. The works to form the access road within the tree protection zone shall be carried out in accordance with a method statement that shall have received the prior written approval of the Local Planning Authority.

Reason: it is necessary to protect the root system of the horse chestnut tree and any mechanical excavations are likely to harm the long-term health of the tree. The Local Planning Authority seeks to make it clear that the method of working in the vicinity of the tree is to be strictly controlled.

10. No plant, machinery, building materials or buildings shall be sited, stored or work within the area of the canopy of any tree within the site. The position of the builders compound shall be agreed in writing with the Local Planning Authority before any works are commenced.

Reason: In the interests of the long-term health of the trees on the site that are all protected by Derbyshire County Council Tree Preservation Order no 70.

11. 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.

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

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

Informatives:

Further to Condition 5 above all archaeological work should be undertaken by a suitably qualified and experienced archaeological contractor. The Development Control Archaeologist can upon request provide a written brief from which the WSI can be developed.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

- whether the land in question is already affected by contamination through source - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing

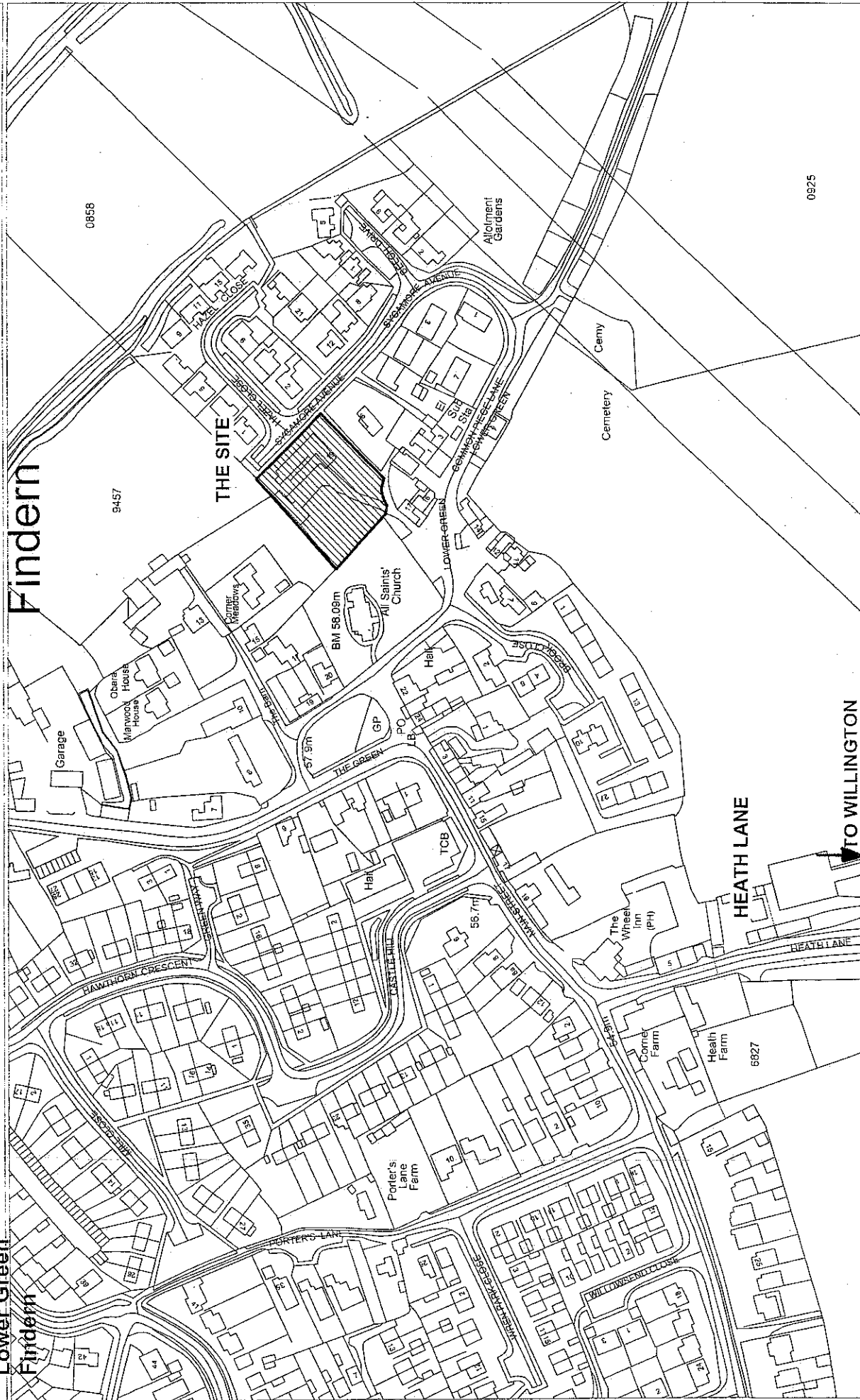
unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

It is indicated on the drawing that Plot 1 may be two and a half storeys. This would be likely to breach the council's Supplementary Planning Guidance with regard to impact on neighbouring dwellings.

9/2006/0623/O The Hall

Lower Green

Findern



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