

SOUTH DERBYSHIRE DISTRICT COUNCIL

DEVELOPMENT CONTROL COMMITTEE – 17th September 2002

Planning Services Manager

I N D E X

PART 1 Planning Applications

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

PLANNING SERVICES MANAGER

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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 Planning Services Manager's 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 Planning Services Manager, 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

17/09/2002

Item 1.1**Reg. No.** 9 2002 0581 R**Applicant:**

Mr Mrs J W M Brockley
 Badgers Run, Ash Lane
 Etwall
 Derby
 DE656HT

Agent:

John Church
 Planning & Development Consultants
 Victoria Buildings,
 117 High Street
 Clay Cross, Chesterfield
 Derby
 S459DZ

Proposal: The removal of condition 2 of planning permission 9/786/316
 to permit the unrestricted occupancy of Badgers Run Ash
 Lane Etwall Derby

Ward: Etwall

Valid Date: 06/06/2002

Site Description

The site comprises a dwelling and garden area immediately adjacent to the Ash Fields Rest Home near Etwall. The site is surrounded by hedges and there is a nursery to the north of the dwelling. Otherwise the site lies in the open countryside.

Proposal

The proposal is to remove the occupancy condition attached to the dwelling that limits the occupation of the dwelling to '...a person solely or mainly or last employed in the Ashe Fields Rest Home or a widow or widower of such a person or any resident dependants.'

Applicants' supporting information

There was an application in the 1990's to remove the condition. That was refused and an appeal was made. In allowing the appeal against the condition the inspector imposed the current condition for the following reason: -

'In these circumstances and despite the knowledge that the Rest Home is operating I do not have sufficient evidence to conclude beyond reasonable doubt that there is no longer any need for the use of Badgers Run as staff accommodation for the Rest Home. The deletion of condition 2 under these circumstances would in my view be harmful to the countryside protection policies in the approved and emerging Development Plans....'

Written confirmation is submitted to show that the owners of the Rest Home no longer require the house and there is no perceived need for the dwelling as staff accommodation. They state that they have no objection to the removal of the condition.

It is contended that the condition no longer performs any useful function and should be removed. It is not an agricultural occupancy condition as it relates solely to the Rest Home and there is no reason not to discharge the condition. The inspector's criticism of the previous situation has been met, planning permission for the discharge of the condition should be granted.

Planning History

Permission was first granted for the erection of a Matron's dwelling was granted in 1986. An application to remove the condition was made in 1996. That was refused and the appeal result is described above.

Responses to Consultations

Etwall Parish Council and the County Highways Authority have no objection.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 6.

Local Plan: Environment Policy 1, Housing Policy 8.

Planning Considerations

The main issue central to the determination of this application is the standing of the condition in the light of the Inspectors decision letter in 1996.

Planning Assessment

In allowing the appeal in 1996, the Inspector was not satisfied that there would be no need for the dwelling to meet the needs of the Rest Home. The applicant's have submitted a written statement signed by all three owners of the Rest Home stating that in the light of their experience, they have and can foresee no requirement for Badgers Run to meet the needs of their business for on site accommodation.

Government advice is that dwellings should not be left vacant or unmarketable just because of a planning condition. Authorities should satisfy themselves that there is no longer a need for such a restriction before allowing the removal of conditions.

The applicant's have pointed out that this is not an agricultural occupancy condition. If it were then the Local Planning Authority would expect to see evidence of substantial attempts to sell the property with the condition attached at a price that reflected the imposition of the condition. In this case, there is only one possible market for the dwelling, the Rest Home next door. There is clear evidence in the form of a signed statement, that there is no such need. In these circumstances, the removal of the condition is inevitable, as it no longer would serve any useful purpose.

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 planning permission.

17/09/2002

Item 1.2**Reg. No. 9 2002 0595 F****Applicant:**

Mr & Mrs Buckland
 Castle View
 Foston
 Derby
 DE65 5PX

Agent:

David P Willshaw
 Halsdon House
 Luppitt
 Honiton
 Devon
 EX14 4TR

Proposal: The siting of six additional caravans (three residential and three utility) at Former Castle View Service Station Utttoxeter Road Foston Derby

Ward: North West

Valid Date: 13/06/2002

Site Description

The site comprises an existing approve permanent gypsy site off the Utttoxeter Road Hatton. The site is mainly down to gravel and has a front boundary wall. Fences enclose the other boundaries. There is a Public Footpath to the east adjacent to the site boundary.

Planning History

Permission to redevelop the site for gypsy caravans was granted at appeal in 2001. An application for the temporary siting of three caravans was allowed in October 2001 together with permission to retain a washroom facility on the site. Earlier this year an application to extend the temporary permission was received and subsequently withdrawn in favour of the current application.

Responses to Consultations

Hatton Parish Council and local residents strongly object for the following reasons: -

- a) The applicant has on several occasions breached planning conditions such as repositioning the mobile home, construction of the toilet block, installation of a number of services to serve more than one caravan and kept two entrances in contravention of the Highway Authorities condition.
- b) The site is totally unsuitable for a gypsy caravan site
- c) The appeal inspector found that the proposal would be **harmful in the countryside**, it was appropriate for the needs of **a single gypsy family** and that conditions could mitigate the harmful effects on the landscape.
- d) The site plan is inaccurate, the amenity block is much larger than shown.

- e) The applicant's intentions are clear, he intends to run a private gypsy site that is not appropriate to the setting.

Foston and Scropton Parish Council object as it does not wish to see the site develop as a transit site, which is precisely what it has become and fully supports Hatton Parish Council in its objections.

The Environmental Health Manager and Severn Trent Water have no objection.

The County Highways Authority and the Environment Agency have no objection subject to conditions.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 8

Local Plan: Housing Policy 15

Planning Considerations

The main issue central to the determination of this application is the impact of the stationing of additional caravans on the application site to meet the needs of the gypsy family resident on the site in the light of objections received.

Planning Assessment

The site has been accepted as a suitable site for a single gypsy family. The applicants have indicated that the additional caravans on the site are for members of their own family comprising sons, daughters and grandchildren. A condition to this effect would be appropriate if members are minded to accept the recommendation.

The Parish Council's comments about development being undertaken prior to the grant of planning permission are true but the situation in each case has been regularised by the submission of applications.

In terms of the impact on the wider countryside, the site is relatively early in the period of establishment. The applicants have undertaken planting on the site that would over time mitigate the impact of the development. The lack of immediate screening does emphasise the impact of the proposal.

Overall, subject to the caravans being occupied by members of Mr & Mrs Buckland's family, the use of the site is in accord with the terms of the Development Plan.

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 occupation of the site shall be limited to the members of the immediate family of the applicants' unless otherwise agreed in writing by the Local Planning Authority which has granted permission for any variation in response to an application made in that regard.

Reason: The site is located in a position suited to meet the needs of a local gypsy family and has only been considered in that regard.

17/09/2002

Item 1.3**Reg. No.** 9 2002 0680 F**Applicant:**

Mr Mrs L Whitmore
39, Church Road
Egginton
Derby
DE656HP

Agent:

Mr Mrs L Whitmore
39, Church Road
Egginton
Derby
DE656HP

Proposal: The formation of a vehicular access to serve 39 Church Road
Egginton Derby

Ward: Hilton

Valid Date: 09/07/2002

Site Description

The site comprises a dwelling within a terrace on Church Road, (a class C road). The road is some 9.0 metres wide at this point and the site is some 20 metres from a sharp bend in the road.

Proposal

The proposal involves the creation of a 2.7 metre wide access to the front garden of the dwelling with a new wall constructed along the back edge of the footway

Responses to Consultations

Egginton Parish Council has no objection.

The County Highways Authority objects to the development as approval of the proposal would result in vehicles manoeuvring to or from the highway at a location where visibility is substandard contrary to the best interests of highway safety.

Planning Considerations

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

- The impact on highway safety.

Planning Assessment

The road through Egginton is not as heavily trafficked as it was when it acted as a short cut from the A38 to the A5132. Indeed, there is a weight restriction on the road. At the time of the officers site visit, a 10-minute period, there was not more than one vehicle running past the

application site. The road width here is wider than normal and presents the opportunity for vehicles to manoeuvre clear of the main traffic flow before negotiating access to the site.

In the above circumstances, it is considered that a refusal based on the grounds promoted by the County Highways Authority would be difficult to sustain at appeal.

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 five years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990

2. The walls on the site frontage shown on the submitted drawing shall be no higher than 1.0 metre above the level of the adjacent carriageway level.

Reason: In order to maintain visibility across the site frontage.

17/09/2002

Item 1.4**Reg. No.** 9 2002 0681 O**Applicant:**

Mr C Renshaw
 109 Station Road
 Mickleover
 Derby

Agent:

Darryn Buttrill
 Bi Design Architecture
 First Floor Studio
 79 High Street
 Repton
 Derbyshire
 DE656GF

Proposal: Outline application (all matters except means of access to be reserved) for the erection of two houses in the garden of 3, South View Cottage Common End Etwall Derby

Ward: Etwall

Valid Date: 02/07/2002

Site Description

The site comprises a single dwelling with extensive side gardens. The Site has fences or walls to all boundaries and is surrounded by dwellings. Common End is an unadopted road and leads to allotments.

Proposal

This is an outline application with all matters, other than access reserved for subsequent approval. The application is accompanied by an illustrative layout that seeks to show that the land is capable of accommodating two dwellings. This does not form part of the application.

Responses to Consultations

Etwall Parish Council has objected to the development on the grounds that the proposal would result in an increase in traffic along a lane that is unsuited to take the traffic and the site is too small.

The County Highways Authority has no objection subject to conditions controlling parking and visibility splays.

Responses to Publicity

Three letters have been received objecting on the following grounds: -

- a) There is insufficient room for any on road parking, there is no space to manoeuvre any vehicles within the site, others had to provide turning facilities, occupiers and visitors to these houses will use others space to turn their vehicles. The application should be refused for this reason alone. More vehicles using the lane will destroy its surface, traffic levels are likely to increase by 50%. Visibility is very limited where the lane joins the old Egginton Road, there would be a strong possibility of an accident.
- b) The sewer pipe has already collapsed once under the weight of large vehicles, there is a strong possibility of this happening again, or even other services in the lane being damaged.
- c) The area is suffering from the activities of joyriders. The police seem uninterested to date in these activities.
- d) One of the proposed garages is too close to the adjacent dwelling and would block out the view from the living room.

Structure/Local Plan Policies

The relevant policies are:

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

Local Plan: Housing Policy 5, Environment Policy 8.

Planning Considerations

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

- The suitability of the site in terms of Development Plan policies.
- The suitability of the access.

Planning Assessment

The site lies within the village confines of Etwall and as such the principle of residential development is acceptable under the provisions of Housing Policy 5 of the Local Plan. The site is not one that contributes to the character and appearance of the settlement and would not qualify for protection under the terms of Environment Policy 8 of the Local Plan.

The access is a narrow lane but the County Highways Authority is satisfied that it is capable of accommodating the traffic likely to be generated.

The illustrative layout shows that the land is capable of accommodating two dwellings. It does not form part of the application and the provision of facilities such as turning space can be addressed as part of the detailed submission. Detailed design is also a matter that would be considered in a subsequent application.

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 either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

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

2. Approval of the details of the siting, design and external appearance of the building(s) and the 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. Prior to the first occupation of any dwelling on the site hereby permitted, visibility sight lines of 2m x maximum achievable over controlled land shall be provided at the three site accesses with no obstruction exceeding 1.0 metre in height relative to the road level forward of the sight lines.

Reason: In the interests of highway safety.

4. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms three cars, in any other case two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces (in the case of dwellings with four or more bedrooms) or two parking spaces (in any other case), measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

5. 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.

17/09/2002

Item 1.5**Reg. No.** 9 2002 0715 F

Applicant:
 Patricia A C Beresford
 65, The Crest
 Linton
 Swadlincote
 Derbyshire
 DE126QE

Agent:
 Patricia A C Beresford
 65, The Crest
 Linton
 Swadlincote
 Derbyshire
 DE126QE

Proposal: The retention of wood panel fencing and the installation of gates at the front of 65 The Crest Linton Swadlincote

Ward: Linton

Valid Date: 15/07/2002

Site Description

The dwelling is one in a residential area characterised by a mix of pre and post war housing. The dwellings have front garden areas and the front boundaries along the street are marked by a variety of treatments including hedges, walls and fences.

Proposal

Retrospective consent is sought for a concrete post and wooden panel fence, which has been constructed along the front boundary of the dwelling. The fence measures 1.3 metres in height. A decorative metalwork gate is proposed in the future but the Applicant has stated that it will be under 1 metre in height and can therefore be constructed under permitted development rights.

Planning History

No relevant planning history.

Responses to Consultations

The County Highway Authority states that the fence panels for a distance of 2 metres adjacent to the double gates should be no higher than 1 metre above ground level to provide pedestrian intervisibility for any vehicle emerging from the driveway.

Linton Parish Council does not have any objections but ask that the neighbours views are taken into account.

Responses to Publicity

Two letters have been received from neighbouring residents objecting to the development on the following grounds: -

- The size/ height and external appearance of the fence are not in keeping with the character of the area.
- The fence has been constructed incorrectly and detracts from the appearance of the streetscene.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan:

Local Plan: Housing Policy 13: Residential Extensions

Planning Considerations

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

- The impact of the fence of the character and appearance of the area
- Highway safety

Planning Assessment

The street and surrounding area is characterised by a variety of boundary treatments including fences, walls and hedges. The fence is not considered to look out of place in this location, there is a wall to one side of the property and a hedge to the other side. The external appearance of the fence is considered acceptable and is similar to other examples further along the street.

The application site is located in a quiet residential area and the fence bounds onto a residential street that leads through to Princess Avenue, a cul de sac. County Highways have requested the reduction in height of the fence of 30cm for 2 metres alongside the access. However the road is quiet in terms of vehicular traffic and the additional 30cm in height is not considered to make such a significant difference to highway safety in this location as to warrant a reduction in the height of the fence. Many of the hedges and existing fences along the street are a similar height to the fence which is the subject of this application.

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.

17/09/2002

Item 1.6**Reg. No.** 9 2002 0725 F**Applicant:**

Mr S Singh
 15, Tedworth Avenue
 Stenson Fields
 Derby
 DE243BS

Agent:

Mr S Singh
 15, Tedworth Avenue
 Stenson Fields
 Derby
 DE243BS

Proposal: The erection of a garage and wall at 15 Tedworth Avenue
 Stenson Fields Derby

Ward: Ticknall

Valid Date: 18/07/2002

Site Description

The property is at the head of a cul de sac, with its rear garden boundary adjacent to the highway.

Proposal

A single storey attached garage is proposed with a 1.8 metre high boundary wall along the garden boundary.

Responses to Consultations

The Parish Council raises the following objections:

- a) The wall should be no higher than the existing fence to 11 Tedworth Avenue as this would restrict light and vision.
- b) The garage would have doors front and rear. Access from the front would be difficult.
- c) The use of the front access over a private drive may cause obstruction, as there is little room for manoeuvre.

The Highway Authority has no objection in principle.

Responses to Publicity

Two neighbours object as follows:

- a) The drive to the front is private and there is no vehicular access in favour of the applicant.
- b) Use of the private drive would cause obstruction and danger.
- c) The boundary wall would restrict visibility to the drive of No 11 Tedworth Avenue to the detriment of safety.
- d) The wall would cause loss of light.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: Housing Policy 13.

Planning Considerations

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

- The impact on the general character of the area.
- Residential amenity.
- Highway safety.

Planning Assessment

The proposed extension would be in keeping with the host dwelling and the general character of the area. The roadside wall would be a visual improvement over the existing fence, which is showing signs of wear and tear.

The garage would have no material impact on residential amenity, being set well away from neighbours' dwellings. The wall would not have a material impact on light to neighbours. The applicant is entitled to erect a wall along the side boundaries (not adjacent to the highway) to a height of 2 metres under permitted development rights.

The visibility to the drive of No 11 Tedworth Avenue could be protected by condition, limiting the height of the wall to 1 metre at the critical point. The issue of the private drive is not material to this case and must be resolved by the respective owners.

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 five years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning 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. The area shown hatched on the attached plan shall be kept free of any obstruction to visibility in excess of 1 metre in height.

Reason: In the interests of highway safety.

17/09/2002

Item 1.7**Reg. No.** 9 2002 0751 F**Applicant:**

Mr G Jones
45, Main Street
Milton
Derby

Agent:

M. Blood
M. A. Blood Building Design
6 Brecon Close
Spondon
Derby.
DE21 7JD

Proposal: The erection of a garage and a wall at 45 Main Street Milton
Derby

Ward: Repton

Valid Date: 22/07/2002

Site Description

The site for the garage is to the rear of a new dwelling under construction, a former barn, adjacent to 45 Main Street. Access is gained via a new drive to the north of the existing cottage.

Proposal

A single garage is proposed. The boundary wall would be 2 m high and set adjacent to the highway. A pedestrian gate would be incorporated. The drawing has been amended to show a wall of plain detail, with its piers set inside the site. The wall would seal the former vehicular access to 45 Main Street.

Applicants' supporting information

- a) The wall needs to be of sufficient height to screen the area in front of the building, which is its only private amenity space.
- b) If permission is not granted screening could be erected set back from the highway.
- c) Permission was granted for a screen wall several years ago and is still extant because development was commenced.
- d) A large proportion of properties in the village have screen walls.

Site History

Planning permission 9/2001/0521/F requires the existing vehicular access to be physically stopped up.

Responses to Consultations

The Parish Council objects as follows:

- a) Work has started before permission has been granted.
- b) The height of the wall would cause a loss of aspect of garden. A low wall was expected.

Repton Village Society also objects to the height of the wall commenting that similar walls have had a detrimental effect on the character of the main thoroughfare. The proposed wall would hide the character of the properties behind it.

Structure/Local Plan Policies

None relevant.

Planning Considerations

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

- The impact on the general character of the area.
- Residential amenity.

Planning Assessment

Given that some form of barrier is required pursuant to the planning condition referred to above the construction of a wall is in principle appropriate. The wall is of simple design and reflects other walls of similar height adjacent to the highway elsewhere in the village. Whilst it would preclude views into the private garden to the new dwelling the overall impact on the street scene would be minimal and not harmful. The garage would have negligible impact in this regard.

The garage and wall would have minimal impact on the amenities of the occupiers of the adjoining dwellings. The objectors' request for a low wall would make it difficult for the occupiers of the new dwelling to enjoy reasonable privacy.

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

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. A sample of the roof tile and the brick and the capping for the boundary 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.

3. This permission shall relate to the amended drawing showing piers set on the inner face of the boundary wall.

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

17/09/2002

Item 1.8**Reg. No.** 9 2002 0766 F**Applicant:**

Lewis Kirby
41, Woodville Road
Overseal
Swadlincote
Derbyshire
DE126LU

Agent:

Lewis Kirby
41, Woodville Road
Overseal
Swadlincote
Derbyshire
DE126LU

Proposal: The relocation of a radio mast at 41 Woodville Road Overseal
Swadlincote

Ward: Overseal

Valid Date: 29/07/2002

Site Description

The radio mast is located in the rear garden area of a semi-detached dwelling which fronts onto Woodville Road. New dwellings have recently been constructed to the rear and side of the site and the surrounding area is residential in character.

Proposal

The application is a retrospective submission for the relocation of an existing radio mast. The mast has been moved closer to the rear of the dwelling from a position further down the garden because part of the rear garden has been sold by the Applicant.

Applicants' supporting information

In a supporting letter the Applicant makes the following points:

- An original mast located close to the house held the VHF aerials but this was damaged in the storms of 1998/99.
- The VHF aerials were subsequently transferred to an alternative mast located further away from the house and this mast has the ability to be lowered into the horizontal position during the event of a storm. This is the mast which has now been repositioned.

Planning History

Permission was granted for a 10.5 metre high mast in 1983 and permission was granted for a 9.145 metre high mast in 1997.

Responses to Consultations

The Parish Council supports the application.

Responses to Publicity

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

- Concerns over whether the existing masts and aerals at the dwelling benefit from planning permission.
- The concentration of aerals has happened in the last 12 to 18 months since the bottom section of the garden was sold off and there are now 4 masts within a distance of 32 metres each housing several aerals.
- The outlook at the rear of 41 Woodville Road has an industrial appearance not in keeping with a residential area in the National Forest.
- The mast spoils the visual environment of the area.
- Since its repositioning the mast is in full view from the front windows of dwellings located on Forest View.
- Concerns over safety in the event of a storm.

Structure/Local Plan Policies

None relevant.

Planning Considerations

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

The impact on the residential amenity of adjoining residents and the visual appearance of the area.

Planning Assessment

The mast is not a new feature but has been repositioned within the garden area of the dwelling. The mast is located in the rear garden and is therefore screened by the existing dwelling when viewed from the main frontage of Woodville Road. Forest View which is a new estate road has been constructed along the side of the application site and dwellings which front onto Forest View face the rear garden of 41 Woodville Road and therefore the application site. However, the repositioning of the mast to a new part of the garden is not considered to have a materially greater impact on the residential amenity of the nearby residents or on the visual appearance of the area than when it was sited in its previous location. The revised siting of the mast is therefore considered acceptable.

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

Recommendation

GRANT permission.

17/09/2002

Item 1.9**Reg. No.** 9 2002 0825 F**Applicant:**

Mr D Worrall
 80, Victoria Street
 Melbourne
 Derby
 DE73 1FQ

Agent:

B. Williamson
 Gilson Design Consultants Ltd
 Genista
 Broomhills Lane
 Repton
 Derbyshire

Proposal: The erection of a detached house and garage together with the alterations to the vehicular access at 80 Victoria Street Melbourne Derby

Ward: Melbourne

Valid Date: 12/08/2002

Site Description

The site is the rear garden to 80 Victoria Street and contains a substantial two-storey brick store at present. The access to the subject site is presently sub-divided by a retaining wall. No 78 has a narrow drive that barely functions as a single parking space for that property.

Proposal

The proposal would involve the demolition of the existing building. The driveway to No 78 would be built up to form a joint access. The back of the new dwelling would be 12 metres from the boundary of the site with nos. 43 & 45 Spinney Hill. A semi-mature Silver Birch tree would be lost.

Responses to Consultations

Melbourne Civic Society objects for the following reasons:

- a) There would loss of privacy to adjoining houses.
- b) There would be excessive use of a single access.
- c) The re would be overshadowing to neighbouring gardens.
- d) There would be an undesirable precedent for other new development in rear gardens leading to town cramming of the worst kind.
- e) The dwelling would be much larger than the existing building on the site.
- f) No 78 would be deprived of two parking spaces.
- g) The garden to No 80 would be minuscule.

- h) If development is to be permitted it should be on the same size footprint of the existing building.

The Highway Authority and Severn Trent Water Limited have no objection in principle.

Responses to Publicity

A neighbour in Spinney Hill objects for the following reasons:

- a) The dwelling would be in close proximity to the boundary and would result in loss of privacy.
- b) The reason for house purchase was the very private rear garden and the long gardens in Victoria Street, which kept properties a substantial distance away from the boundary.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5.

Local Plan: Housing Policy 5 & 11.

Planning Considerations

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

- The impact on the general character of the area.
- Residential amenity.
- Trees.
- Highway safety.

Planning Assessment

The building would replace an existing two-storey building of similar mass. Thus the impact on the general character of the area would be negligible.

The proposal satisfies the supplementary planning guidance on space about dwellings. As such the impact on neighbours is acceptable. The shared drive would enable improvements to be made to the access to No 78 Victoria Street.

The Silver Birch is not prominent in the street scene and therefore possesses little amenity value.

On the advice of the Highway Authority there would be no demonstrable harm to highway safety interests.

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 five years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

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/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

3. The first floor windows in the front (south-east) wall of the building shall be permanently glazed in obscure glass.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

4. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

5. 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.

6. The development shall not be brought into use until the access, parking and manoeuvring space have been provided as shown on the submitted plan and thereafter the facilities shall be retained free of any impediment to their designated use.

Reason: In the interests of highway safety.

7. Prior to the first occupation of the dwelling the frontage to 80 Victoria Street shall be cleared and thereafter retained free of obstructions exceeding 1 metre in height relative to road level for a distance of 2 metres from the carriageway edge.

Reason: In the interests of highway safety.

17/09/2002

Item 1.10**Reg. No.** 9 2001 0908 F**Applicant:**

Foston Farm Produce
 Hay Lane
 Foston
 Derby
 DE655PJ

Agent:

Alan Taylor
 Talbot Associates
 Talbot House
 18 Grange Close
 Ticknall
 Derbyshire
 DE73 1LF

Proposal: The formation of an access road and security gatehouse off Woodyard Lane and to allow 24 hour operation as a variation of Condition 3 of planning permission 9/1993 /0001 at the premises of Foston Farm Produce Hay Lane Foston Derby

Ward: North West

Valid Date: 11/09/2001

Site Description

The site comprises land between the rear of the factory complex at Foston Farm Produce and the rear of the haulage yard and storage yard known as Edgar Bentley Transport. There is a hedge with trees between the sites and the ground over which the road runs is under grass. A public footpath runs along the north and east boundaries of the Foston Farm site.

Proposal

The proposal involves the construction of a concrete roadway between the two areas of hardstanding in both sites. This road is already in place but is not currently in use. There would be a security gatehouse at the entrance to the FFP site at the east boundary. This would be constructed in brick and tile. Two 7.7 metre high lighting columns are proposed in two locations along the access road. The application also requests an extension of the operating hours of the factory to 24 hours a day seven days a week.

Applicants' supporting information

The application has been delayed pending production of and then consideration of a noise impact analysis for the proposal. The conclusions can be summarised as follows: -

- The main receptors of noise are Lawn House, Cottage Farm on Hay Lane and Gables House on Woodyard Lane.
- The principle sources of noise from Foston Farm are:

- vehicle movements associated workers arriving and leaving
- Vehicle movements associated with HGV's delivering to the site and other vehicles equipped with refrigeration motors
- Mobile refrigeration plant and static refrigeration plant integral to the operation of the site.

There is a detailed analysis of the impact of the noise sources on the dwellings referred to above. The overall conclusion is that the noise situation at the dwellings would be enhanced by the creation of the new access drive. This is due in the main to the removal of HGV's from Hay Lane and the associated noise from their refrigeration plant. This would be of benefit to the occupiers of Lawn Farm and Cottage Farm.

Gables Farm would have additional noise on the dwelling resulting from the traffic. The report considers that the impact of the proposal on these properties would not be significant given the predicted noise levels.

In response to a request from the Environmental Health Manager, a full Noise Impact Assessment has been undertaken. This included a period of 24 Hour a day operations but without the use of the Nitrogen cooling/freezing system for the whole of the test period. Noise from the cooling system was audible at Lawn House as a low pitch continuous humming sound. In addition, there was the occasional distant clattering of forklift trucks and the clatter and banging (faint) associated with cleaning operations. None of these activities were audible at other receiver positions in and around the site. The report then goes on to discuss the various noise sources within the factory that may affect the amenity of nearby residents. The report also looks at the noise impact at various other locations in and around the application site that may be affected by the development.

The overall conclusions and recommendations are as follows: -

- The factory and the residential receptors located in the vicinity are exposed to relative high levels of background noise. Road traffic using the A50 to the south is considered to be the dominant source of background noise and to have significant potential to mask noise emissions arising from the factory site.
- Lawn House is considered the principal sensitive (to noise) receptor. Gables House and Cottage Farm are considered sufficiently remote from the factory site, such that they are not affected by noise emissions arising from the site.
- Refrigeration and compressor plant is faintly audible at Lawn House, based on the current schedule of operations (baseline conditions). Faint banging noises associated with night-time cleaning operations were also occasionally audible. However, the level and frequency of the elements of noise would not be expected to comprise a nuisance to the occupants of Lawn House.
- The levels of refrigeration plant/compressor noise did not appear to increase significantly during the trial period of night-time operation. However, the following sources/activities associated with the extended operations are considered to have significant potential to cause a nuisance due to a combination of the level of noise, intrusive character/qualities of the noise, and the frequency of occurrence:
 - Nitrogen Tunnel Exhaust (strong humming noise)

- Forklift and pallet trucks (clattering and occasional horn use)

Consideration should therefore be given to measures to mitigate the noise arising from these sources/activities, as part of the proposed extension to factory operations.

Nitrogen Tunnel Noise

It is understood that the operation of the nitrogen tunnel may not be an essential part of the current extended factory operations, since it is understood that these activities will be restricted to packaging initially. Appropriate mitigation is presently in place as the operation of this tunnel is presently linked to a timing device, which is considered an appropriate mitigation method for this unit.

However, should future production demands require nitrogen tunnel exhaust operation during the period of extended working i.e. after 19:00 hrs, the level of mitigation required would be more onerous. An appraisal of mitigation options would need to be undertaken. Appropriate measures could include relocating the tunnel so that it exhausts towards the north of the factory, or the application of a proprietary acoustic treatment.

Forklift/Sack Barrow Movements

The most appropriate way to minimise noise from forklift /sack barrow movements would be to implement a slight change in working practice/production management. The potential for pallets/trays to be stored within the factory should be investigated, so that sufficient pallets could amassed for an evening's/night's production. This obviates the need for external (to the factory) forklift/pallet truck movements and therefore removes this source of noise.

In addition to the principal measures discussed above a number of precautionary measures/procedures have been considered as follows:

The night time cleaning operations are known to have comprised a nuisance to the occupants of Lawn House especially, when cleaning operations were carried out whilst doors on the south facing side of the factory were open. Freeman Quality Products (FQP) have indicated that it would be possible to limit use of these doors to emergency exit use only. As doors were not open during the most recent survey, it is considered that this operational change should minimise the potential for further complaints.

Proposals exist to relocate the sites access to the eastern end of the site off Woodyard Lane. 24-hour security will be provided within the gatehouse at the access point on to the site. A security guard will therefore always be present to enforce FQP's ban on the use of tractor units to power refrigeration plant on vehicles arriving during the evening/night. Any vehicles arriving outside hours of normal operation will be temporarily parked on the access road near the gatehouse. This position is considered sufficiently remote from Lawn House. Such arrangements are therefore considered to have a lower potential to comprise a potential nuisance.

Full copies of the noise reports are available on the file.

In addition to the above, the company has submitted a letter that is reproduced in slightly edited form below: -