

DEVELOPMENT CONTROL COMMITTEE – 16 December 2003

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).

REPORT OF THE PLANNING SERVICES MANAGER

- 1. Planning Applications**
- 2. County Council Consultations**
- 3. Appeals**

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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

16/12/2003

Item 1.1**Reg. No. 9 2003 1140 F**

Applicant:
 Severn Trent Water Authority
 2297 Coventry Road
 Birmingham
 B263PU

Agent:
 Simon Heaton Planning Consultants (Kay
 Davies)
 3 Briton Lodge Close
 Moira
 Derbyshire
 DE126DD

Proposal: **The erection of a replacement reservoir at Smisby Reservoir
 Heath Lane Boundary Swadlincote**

Ward: **Hartshorne/Ticknall**

Valid Date: **15/09/2003**

Site Description

The site is on the north side of Heath Lane opposite the junction with Forties Lane in open countryside.

The existing circular concrete reservoir (some 34m diameter) is set back 90m from Heath Lane and is set within wooded earth mounds, which screen the structure. Access to the site is from a track off Heath Lane.

Proposal

It is proposed to demolish the reservoir, which extends underground, and fill the remaining void with the demolition material and the earth from the screening mound. It is proposed to construct a new reservoir in the field fronting Heath Lane in front of the old reservoir site. Removal of the screening mound would enable access to this field.

The proposed reservoir would be 27m wide by 21m deep and project 4.75m out of the ground and be 16m from the front highway boundary hedge. It would be grass covered and there would be a grassed earth batter formed against the sides of the reservoir with a 26 degree angle of recline to the ground.

The site of the old reservoir would be planted with trees and shrubs and the boundary hedges visible from the road strengthened with additional trees and a new hedge and trees planted on the western boundary. In all, it is proposed to plant 149 trees and 1252 shrubs.

The programming of the work also necessitates the use of a temporary stockpiling area for the material. This area would be in the field to the west of the site.

Applicant's supporting information

The new reservoir is required to replace the delapidated existing reservoir which has deteriorated such that it can now only operate at 50% capacity.

Questions have been raised by the County Highway Authority relating to the number of construction vehicles and the construction period. The construction period is expected to commence on 16th January 2003 and is programmed to last 34 weeks. A vehicle movement programmes has been included with the submission. The applicant is aware of the public footpath, and will be taking the necessary measures to control the movement of heavy goods vehicles.

The following is a response to the Parish Council comments:

The replacement reservoir must be constructed before the existing reservoir is taken off line; the water system needs to retain a continuous reservoir facility at Smisby to ensure supplies to the local area. The re-use of the existing site for the replacement reservoir is therefore not an option. The development on agricultural land is not considered to be extensive, involves the least amount of disruption in comparison to completely re-siting the reservoir and utilises an existing access.

It is considered that the combination of grass coverage, existing vegetation and proposed new planting, will ensure that the visual impact of the development would be minimised. In terms of the siting of the development, the location of the replacement reservoir needs to be in proximity to the existing site to utilise the existing underground infrastructure (including the mains water supply for the area) and avoid the need for further pumping and therefore further development in open countryside. The adjacent location also minimises impact on third party land by avoiding the need to lay new underground pipes and chambers.

The visibility of the radio masts to the north of the application site is not considered to be a matter that Severn Trent Water is accountable for. This is an entirely separate development that should be considered on its own merits. Notwithstanding this, the proposed re-use of material on site to infill the existing reservoir is the most sustainable option available. If the bunds were to be retained then substantial amounts of material would be required to be imported from offsite generating additional heavy goods vehicle movements, a factor that the Highways Authority clearly want to keep to a minimum. The planting up of the existing site is seen as a benefit of the scheme.

Severn Trent Water considers works to the current operational site as permitted development under the GPDO 1995 Part 17 Class E (g), this includes the removal of the bunds.

An ecological survey of the site and surrounding area was undertaken and there were considered to be no ecological constraints to the proposed works.

Responses to Consultations

The County Highway Authority states that traffic management measures will be necessary to control the movement of heavy goods vehicles to and from the site in view of the substandard nature of the access. It comments that the applicant should also be aware that the access track running along the site's eastern boundary carries the route of Footpath 3 in the parish of Smisby, as shown on the Definitive Map and that the rights and safety of users of the footpath should be protected at all times.

Smisby Parish Council objects to the proposal on the following grounds:

1. The Local Plan does not support development on agricultural land and the proposed reservoir is on agricultural land
2. The proposed reservoir is very visible because of its own height and the height of its location
3. The proposed reservoir will detract from the visual amenity of the countryside since the proposed construction of a grass covered mound will look obviously artificial and just like a reservoir
4. The proposed removal of the existing bund and trees will make the radio masts near the existing reservoir even more visible and obtrusive. As you know, Smisby Parish Council were not consulted about the recent planning application regarding the masts due to an oversight.

The Parish Council objects to any visible and intrusive development in this area. The proposed site is right beside the road, by a junction, next to a footpath and near permissive footpaths and amenity woodland. The current location of the reservoir is well screened by mature trees and set back from the road and therefore is less visible. The current location is considered preferable to the proposed one. The Parish Council asks if the proposed can be sited where the current one is.

The Environmental Health Manager has no objection.

Responses to publicity

Objections and concerns have been raised by two local residents, one of which is the owner of the track, summarised as follows:

- The track is only one vehicle wide, unmade and exits on to the main road in a very dangerous position
- The access is to be used extensively by the owner over the coming months and is concerned how the plans can be implemented safely given the access issues and the poor condition of the track
- It would involve the removal of trees in a sensitive landscape position.
- Consideration should be given to building on the site of the existing reservoir
- The proposal next to Heath lane would be an eyesore even with landscaping
- Other people have had schemes refused in the area and to be consistent this should also be refused.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Environment Policy 1.

Local Plan: Environment Policy 1.

Emerging Local Plan: Policy ENV 3 and 7.

Planning Considerations

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

- Impact on the appearance of the countryside
- Highway safety

Planning Assessment

The supporting text to ENV 7 states that some forms of development such as roads, reservoirs and power lines, have of necessity to be located in the countryside and in these cases, particular care is necessary to ensure that they are integrated as sympathetically as possible into the landscape and their impact is reduced as much as possible.

The proposed reservoir would be seen from the public highway and albeit grass covered its geometric form would present an unusual contrast in the countryside. This type of structure however is not unfamiliar in the countryside and in time becomes an accepted feature. The adequate tree and hedge planting will assist in assimilating the structure into the landscape. Any residual visual impact should be offset against the benefit of maintaining an uninterrupted water supply to the area and making use of existing infrastructure which would be less damaging than starting from scratch on an entirely new site.

The County Highway Authority suggests a condition requiring details of traffic management measures to control vehicle movements at the sub-standard access. This would be sufficient to allow opportunity to address the concerns of highway safety.

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.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
2. Reason: In the interests of the appearance of the area.
3. No development shall commence on site in connection with this approval until details of traffic management measures to control vehicle movements at the substandard access have been submitted to and approved in writing by the Local Planning Authority and the measures shall be carried out in accordance with the approved details.
3. Reason: In the interests of highway safety.

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.

16/12/2003

Item 1.2**Reg. No.** 9 2003 1160 FH**Applicant:**

Mr Paul Davis
Longridge, Main Street
Hilton
Derby
DE65 5GG

Agent:

Mr Pat Broderick
Office Number 2
Derwent Business Centre
Clarke Street
Derby

Proposal: The erection of a two storey extension and formation of a new access at 59 Main Street Hilton Derby

Ward: Hilton

Valid Date: 22/09/2003

Site Description

Please see previous report attached.

Proposal

(see previous report)

Applicants' supporting information

The applicant has amended the proposals to meet the requirements of the County Highways Authority.

Planning History

(see previous report)

Responses to Consultations

Hilton Parish Council has no objection to the amended proposals but is concerned that the access is in close proximity to a bus stop and the pedestrian access to the Parish Council's playing field.

The County Highways Authority has no objection to the revised proposals subject to the recommended conditions.

Responses to Publicity

At the time this report was prepared, no further comments/objections had been received, any that are received will be reported at the meeting. (Please see the previous report for objections to the proposals).

Structure/Local Plan Policies

(see previous report)

Planning Considerations

(see previous report)

Planning Assessment

Members will recall deferring this case from the last committee to allow for neighbours to be reconsulted on amendments to the proposed access. The County Highways Authority is satisfied that the access can be provided without detriment to highway safety and as such, there are no grounds for withholding permission for this reason. (Please see the previous report for the comments on the objections).

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.
1. 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.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no submitted under cover of your letter dated 18 Novemeber 2003.
3. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
4. No gates shall be erected within 5m. of the highway boundary and any gates elsewhere shall open inwards only.
4. Reason: In the interests of highway safety.
5. Prior to being taken into use, the new access shall be surface in a solid bound material and be provided with measures to ensure that surface water does not escape from within the site onto the highway.
5. Reason: In the interests of highway safety.

Informatives:

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

The site is affected by a Building Line prescribed under the Roads Improvement Act of 1925 that will need to be revoked before any building works commence. You should contact Mrs D Spencer at Derbyshire County Council Environmental Services Department County Hall Matlock - 01629 580000. There is a fee payable for the removal of the Building Line.

16/12/2003

Item 1.3**Reg. No.** 9 2003 1171 O**Applicant:**

D E & B J Hall
149, Hillside Road
Linton
Swadlincote
Derbyshire
DE126RB

Agent:

D E & B J Hall
149, Hillside Road
Linton
Swadlincote
Derbyshire
DE126RB

Proposal: Outline application (all matters to be reserved) for the
erection of a dwelling on Land Adjoining 149 Hillside Road
Linton Swadlincote

Ward: Linton**Valid Date:** 24/09/2003**Site Description**

The site is part of the side garden area of a bungalow and is located within a ribbon of development between Castle Gresley and Linton. The site has hedges on the front and side boundaries and is located between the bungalow and a semi-detached house.

Proposal

The application is for outline consent for a detached dwelling, all matters are reserved.

Planning History

Planning permission was refused for three houses and a bungalow on the open land to the other side of the bungalow in 1993.

Responses to Consultations

The Parish Council has no objections to the application.

The County Highway Authority has no objections, subject to conditions ensuring that sufficient visibility can be achieved.

Responses to Publicity

None received.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing policy 4 and General Development Strategy Policy 3.

Local Plan: Housing Policy 4 and 5.

Emerging Local Plan: Policy H1.

Planning Considerations

The main issues central to the determination of this application are the fact that the site is located outside any defined village development boundary and is within the open countryside and the impact the development would have on the openness of the countryside.

Planning Assessment

The site is part of the garden area of a dwelling and is therefore a brownfield site. However the site is not located within the boundary of the Swadlincote Urban Area or a serviced village where new residential development would normally be acceptable in line with Policy H1 of the Draft Local Plan. The site is therefore by definition within the open countryside, however it is located between Castle Gresley, on the edge of the Swadlincote Urban Area, and the village development boundary of Linton, which is a serviced village.

The site is an infill plot as it is located within the built up frontage of an area of ribbon development between the two settlements. In policy terms infill development is acceptable when it is located within the built up frontage of the other non-serviced villages, which are listed within Policy H1 but not in the open countryside. This site however is located within 400 to 800 metres of local facilities and services in both Castle Gresley and Linton and is on a bus route. The site is therefore considered to be in a more sustainable location than infill sites that are located within the other non-serviced villages and where residential development is acceptable in line with Policy H1.

The site is a small gap within a built up frontage and development of this site would not have a significant impact on the openness of the countryside. The fact that this frontage is substantially built up means that there are few other opportunities for infilling in this location. Development of this site is unlikely to set a precedent for similar development in other parts of the district because the site is individual in that it is in a relatively sustainable position, although outside defined boundaries, and its development will have little impact on the openness of the countryside.

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.
1. 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) the means of access thereto 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.
2. 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 any other works commencing the new access shall be formed with Hillside Road. The access shall be located at the south western end of the site frontage, have a minimum width of 3.2m and be provided with 2m x 90m visibility sightlines, the area forward of the sightlines being maintained in perpetuity free of any obstruction exceeding 600mm in height relative to road level.
3. Reason: In the interests of highway safety.
4. The access shall be surfaced in a solid bound material (i.e. not loose chippings) for at least 5m into the site from the highway boundary.
4. Reason: In the interests of highway safety.
5. Any gates shall be set back at least 5m from the highway boundary and open inwards only.
5. Reason: In the interests of highway safety.

Informatives:

To note and act upon as necessary the comments of the Coal Authority (see attached letter).

16/12/2003

Item 1.4**Reg. No.** 9 2003 1182 M**Applicant:**

Wilfred Young Homes
 St Helens Business Centre
 8 St Helens Street
 Derby
 DE1 3GY

Agent:

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

Proposal: Conversion/extension to form 10 units comprising of four
 houses and eight apartments at Longlands Hotel Longlands
 Lane Findern Derby

Ward: Willington/Findern

Valid Date: 30/09/2003

Site Description

The site comprises the immediate grounds around The Longlands. The site is bounded to the south by new housing in the former grounds of the house. The trees within and adjacent to the house are subject to County Council Tree Preservation Order No 70. This Order affects a substantial number of trees in the village and is not exclusive to the site of the Longlands. A substantial roadside hedge to Longlands Lane would, if the application were granted permission, be reduced in height to 1.0 metre.

Proposal

There are three significant areas of change proposed for the building. The first involves increasing the roof height by some 2.0 metres to allow for accommodation in the roof. This would be re-tiled in plain tiles of a colour to be agreed. The second is alterations to the roadside elevation to provide gables overlooking the road and would be painted brick to match the existing. The third element is a two-storey extension on the east side of the building (however, this element has been excluded by condition due to inadequate distance from existing trees – see below). In total 10 living units are proposed in this hotel and guest house.

Communal parking is proposed in the main to the rear of the property but two garage blocks are proposed at the west side of the site. The application plans state that the trees on the site will be subject to protection during construction

Applicants' supporting information

The applicant has amended drawings to take account of comments from the County Highways Authority and the County Council Tree Preservation Officers.

Planning History

This is long and varied. Permission for use of the original building as a hotel was granted in 1990 following a period when the building was used as a nursing home. There have been various planning permissions in the grounds of the hotel including a dwelling in 1981 and a swimming pool and gym in late 1990. Permission for 4 houses was granted in 1992 followed by further application for 4 houses on part of the site in 2001, now implemented, and a further 4 in 2002 now partially implemented (one more dwelling to be erected - plot 8).

Responses to Consultations

Findern Parish Council objects to the development in support of local residents on the basis that there would be an increase in the volume of traffic using the lane with the inherent danger to children. There is also concern that the sewers may become overloaded and that the village school would become overcrowded.

The County Highways Authority has no objection to the amended scheme subject to conditions.

Severn Trent Water has no objection

The Environment Agency has no objection subject to conditions

The Police Crime Reduction Officer has commented about the need to ensure that there are no potential hiding places so trees and shrubs should be of appropriate sizes.

The County Council's tree officer note that some of the parking bays are too close to trees and that there would be a danger that the trees would be damaged by construction works. Alternative parking should be provided to the front of the building rather than to the rear. The remaining areas should be constructed using a no dig method and covered with washed gravel. There is also concern that the company has been lax in providing tree protection fencing and may have caused damage to trees on other parts of their development site. Tree protection fencing is essential if this development is to be permitted. They also have not provided any replacement planting that should have taken place.

The Environmental Health Manager has no objection.

Responses to Publicity

Three letters have been received objecting to the development for the following reasons: -

- a) There would be increased traffic arising from the development, the access is dangerous.
- b) Noise and disturbance (traffic, dust and contractors' plant) arising from the building works.
- c) Deterioration of the road
- d) Damage to adjacent dwellings
- e) Overdevelopment of the site. (8 dwellings rather than 4).
- f) Many trees have been lost without permission, this has reduced the bird and bat population
- g) Storm and foul drains are overloaded

- h) The village school is overcrowded and there is nothing or older children to do so they swarm around the village.
- i) The developer is in it for what he can get – what next shops, offices, pubs?
- j) Whilst not opposed to the conversion, 8 dwellings would seem more appropriate.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5

Emerging Local Plan: Policies H1 and ENV 21

Planning Considerations

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

- The provisions of the Development Plan
- The access and highway safety
- The impact on neighbours
- The impact on protected trees

Planning Assessment

Findern is a serviced village within the definitions contained in policy H1 of the emerging Local Plan. The site also lies in the curtilage of the village defined in Housing Policy 5 of the adopted Local Plan. The principle of residential development is therefore acceptable in principle subject to other material considerations dictating otherwise.

The access to the site is via Longlands Lane. The County Highways Authority has no objection to the development subject to conditions. It will be important in this case to improve the visibility at the junction with Hillside, as there is scope for some additional traffic over and above that when the site operated as a hotel. This is achievable by reducing the height of the hedge and could be a condition of any permission. The County Highways Authority advises that the land behind the hedge remains as part of the highway and would need to be stopped up before development can be commenced. The applicant would need to be satisfied that the land is in control of the landowner.

There are two dwellings immediately opposite the proposal, one on Hillside and one on Longlands Lane. The two-storey dwelling on Hillside is unlikely to be adversely affected by the proposals as its main windows face away from the proposed extensions.

The bungalow on Hillside has habitable room windows facing towards the site in a southerly direction. The bungalow sits about 1.2 metres above the ground level of the Longlands hotel.

The proposed extensions to the front of the building at ground floor level do have habitable room windows in them but the above-mentioned fence would obscure views to the bungalow. The distances between these windows and those in the extensions are on the margins of acceptability under the Council's adopted standards but as there is a screen fence as well as the road between the windows and the extensions, the minimum distances between habitable room windows can be reduced under the current guidelines set out in the SPG.

The other windows in the extension are at first floor level and comprise a mixture of main and secondary living accommodation. These look towards the above-mentioned windows and in one instance at a distance below the recommended minimum. For the reasons set out above, whilst the distances are below the minimum, the distance required can be reduced. Development on one site cannot be used as a reason to refuse development on another where a window in the first, relies on light from the second.

The increase in the height of the roof is a consideration and the overall height of the building would have an impact on the rooms referred to above because it lies to the south of them. However, the improvement to the appearance of the Longlands arising from the proposals and the fact that the windows rely on borrowed light, outweigh the impact from the increase in the height of the building and could not be relied upon to justify a reason for refusal.

The proposed west extension to provide 2 flats would have an adverse impact on an important group of trees on the west edge of the site. The presence of these trees is important in the wider landscape as well as in the immediate vicinity and their preservation is considered to outweigh the benefit of using brownfield land within the serviced village to its maximum. Accordingly, a condition excluding units 8 and 12 is recommended below (reducing the number of units to 10 from the original 12).

Overall, the proposal would add to the variety of accommodation available within the settlement. Given the type of dwellings proposed (i.e. mainly small 1 and two bedrooms) and the relatively small number, the development would not make a material impact on facilities at the school. No open space provision is required for the scheme under the current SPG and in any case the site is well related to the playing field on Hillside where there is play equipment and a football pitch.

Subject to the recommended conditions, the proposal is considered acceptable.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 318WHY/01A, /02A, /03. with the exception that the extensions comprising units 8 and 12 of the proposals are not granted permission and are specifically excluded from this permission.
2. Reason: For the avoidance of doubt, the original submission being considered unacceptable. The impact of the extensions and additional parking areas would have an adverse impact on the future health and well being of trees that are subject to Derbyshire County Council Tree Preservation Order No 70 (1965) and are excluded from the permission in order to ensure the trees are retained.
3. Prior to any other works commencing, visibility sightlines of 2m x maximum achievable shall be provided at the main access onto Longlands Lane. The area forward of the

- sightlines shall be maintained in perpetuity free of any obstruction exceeding 1m in height relative to road level.
3. Reason: In the interests of highway safety.
 4. Prior to the occupation of the first apartment the access to the rear of the premises shall be widened from 3m to 4m in accordance with the revised application drawing.
 4. Reason: In the interests of highway safety.
 5. Prior to the occupation of the house, the access to the garages/parking area shall be provided with 2m x maximum achievable visibility sightlines. The area forward of the sightlines being maintained in perpetuity free of any obstruction exceeding 1m in height relative to the private drive.
 5. Reason: In the interests of highway safety.
 6. Prior to the occupation of the first dwelling, space shall be provided for the parking and manoeuvring of vehicles, laid out in accordance with the revised application drawing and maintained thereafter free of any impediment to its designated use. Before any development is commenced, the precise specification for the finished surface and method of construction of the parking and manoeuvring areas shall be agreed in writing by the Local Planning Authority. The surfacing then shall be laid out in accordance with the approved scheme.
 6. Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety. In addition, the Local Planning Authority needs to approve the specification and method of construction to ensure that the health of the remaining trees is not prejudiced by an inappropriate method of construction.
 7. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
 7. Reason: In the interests of the appearance of the area.
 8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
 8. Reason: In the interests of the appearance of the area.
 9. 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 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.
 9. Reason: To protect the trees from undue disturbance
 10. 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.

10. Reason: To safeguard the appearance of the existing building and the locality generally.
11. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies, designed and constructed to have a capacity and details compatible with the site being drained.
11. Reason: In the interests of pollution control.

Informatives:

The following notes are attached for the information of the applicant.

- a) The applicant is required to contact my Area Manager South East (01629 580000 ext 7695) giving at least six weeks notice prior to commencing any works in the existing highway.
- b) The area fronting the site, designated on the application drawing as visitor parking, currently forms part of the public highway and will need to be stopped up under Section 247 of the Town and Country Planning Act 1990 before being taken into the site curtilage. The applicant should be aware, however, that when a section of highways is stopped up, ownership reverts to the owner of the subsoil and not necessarily the frontager. This matter should, therefore, be investigated thoroughly prior to submitting a planning application.

16/12/2003

Item 1.5**Reg. No. 9 2003 1195 F****Applicant:**

Ian Jones Motors
 Etwall Garage, Derby Road
 Etwall
 Derby
 DE656LR

Agent:

P. Diffey
 Peter Diffey & Associates
 Cotesbach Villa
 54 Woods Lane
 Stapenhill
 Burton On Trent
 DE15 9DB

Proposal: **The erection of a building for the sale of motor vehicles and
 agricultural supplies, equipment and machinery and repairs
 and servicing associated with the uses at
 Etwall Garage Derby Road Etwall Derby**

Ward: **Etwall****Valid Date:** **01/10/2003****Site Description**

The site forms part of the site that was permitted to be developed to replace the Etwall Garage. The site is partially redeveloped for workshops and the Seven Wells public house occupies the frontage land adjacent to the A516. The site lies adjacent to a watercourse and on the application side of the site is a substantial hedge with trees.

Proposal

The proposal involves the erection of a substantial business unit on the land immediately north of the access road to the pub and adjacent to the hedge. It would have a floor area of 931sq.m. The materials of construction are described below but precise details have not been submitted. The hours of operation are proposed as 0800-2000 Monday to Friday, 0800-1800 Saturday and 0900-1700 Sunday.

Applicants' supporting information

The present proposals are a progression from the previous permissions insofar as it is now proposed that a building be erected on the site for several of the approved uses.

It is proposed that the building be used for the sale of motor vehicles and materials to service the agricultural sector. The principle of selling motor vehicles has previously been agreed. The sale of agricultural supplies, equipment and machinery is a progression from this point but is designed to service the rural/agricultural market. In addition parts of the building may be used

for servicing and repairs associated with the main use of the building. Such facilities are not unreasonable in such a location.

It is proposed to erect a steel framed building. The building is to be part brick faced and part faced in plastic coated steel cladding. The type of brickwork and form and colour of cladding are to be agreed later. Parts of the building adjacent to the access road will be glazed.

Access will be from the newly constructed access road off Heage Lane. Car parking standards require 30 car-parking spaces to be provided. The layout provides 18 customer-parking spaces, one additional space for disabled parking, motorcycle/bike parking and 13 staff parking spaces. Parking therefore slightly exceeds the normal requirement.

The site is accessed by a frequent, 7-day a week, bus service. The bus service serves most adjacent villages together with Burton and Derby.

Service access will be via a new service yard to the rear of the proposed building. Service vehicles will enter the site via the new Heage Lane access road. Turning facilities are available on site.

It is anticipated that the building will result in employment for between 6 and 10 staff depending on the final range of uses within the building.

The site is adjacent to a stream. The 2002 permission required the protection of the adjacent flood plain. The present proposals slightly alter the edge of the flood plain, but protect its extent. It is proposed that the flood plain be landscaped and planted up. Additional planting is proposed to the front of the building and adjacent to the staff parking area. It is anticipated that surface water will be disposed of via soak-away. All drainage from roadways and car parks will be directed via a 3-way oil interceptor.

Foul water details have not been submitted but it is anticipated this will be via a klargester bio-disc facility located close to the staff car parking with a soak-away located between old Heage Lane and the public house car park.

No objection would be raised to the imposition of conditions restricting the use to that applied for. Similarly, conditions relating to drainage, protection of the flood plain, car parking and materials are agreed.

In response to a letter requiring that this application be tied in to the Section 106 Agreement affecting the site, the applicant has commented as follows: -

The Agreement is now out of date. Its purpose was to secure the closure of the accesses to the existing petrol filling station on what was then a trunk road in the interests of highway safety. The agreement also included a petrol retail company who would have constructed a new filling station adjacent to the traffic island, now occupied by the pub. Thus, there was a chance that the existing petrol retail outlet would have been closed – this is not the case now.

The road has now been ‘detrunked’ and is no longer the responsibility of the Highways Agency. The Highways Agency was the body responsible for pushing for the closure of the accesses.

The increase in the level of housing in the locality (Hilton) and closure of other petrol outlets (Hatton) mean that the existing petrol station has seen an increase in volume sales of 50% over

the past 2 years. The enforcement of the terms of the Agreement would result in the loss of a valuable local facility.

It is the applicant's intention to seek the agreement of the Local Planning Authority to rescind the Agreement on the basis that it is now defunct. Thus, this application can be determined in advance of the Agreement being rescinded.

Planning History

As part of an overall development, the site received outline planning permission in 1996 for car showrooms, commercial vehicle showrooms, petrol station, and diner this was subject to a Section 106 Agreement.

The provisions of the agreement were that the petrol filling station should cease to operate once development on an area of land identified on the replacement site had been opened. The accesses to the A516 should then have been stopped up and the land behind restored to residential curtilage or agricultural land.

It transpired that the word curtilage was omitted from the wording of the Agreement and the applicant thought he had the tacit approval of the Council for residential development on the land. This was not the case and an application for part residential and part workshop application was refused earlier this year.

A copy of the original planning permission and the 106 Agreement are available for inspection on the file. Please also see Planning Assessment below.

Later planning permission was granted for a public house (now erected), commercial vehicle showrooms, workshop and associated storage and access (part constructed) (approval of reserved matters -1999), car display area, office building, toilet block and extension to the access road (Ref: 9/2001/1234/F, granted in August 2002). Various other planning permissions and refusals also relate to the overall site.

Responses to Consultations

Etwall Parish Council has no objection.

The County Highways Authority has no objection if access from the A516 to Old Heage Lane is stopped up and various other highway requirements are imposed.

The Environment Agency has no objection to the principle of the development but has recommended numerous conditions relating to the land drainage and disposal of foul and surface water.

The Environmental Health Manager has no objection.

Responses to Publicity

One letter has been received that does not raise an objection to the proposal but asks that the building is of an appropriate quality and design, sufficient parking be provided and that there is suitable facilities for the disposal of foul and surface water disposal from the site.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Environment Policy 1, Employment Policy 1

Emerging Local Plan: Policy ENV 7, EMP 2

Planning Considerations

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

- The Development Plan
- The Section 106 Agreement
- The highway issues

Planning Assessment

The implementation of permission 9/2001/1234/F which directly relates to the present application site and adjacent areas together with the implementation of other permission means that the principle of development of buildings on this site has also been established. The proposed access road has been agreed and the use of the site for car sales has been accepted. The applicable policies in the Development Plan are those that relate to the expansion of established businesses. This is an established commercial site thus; the issue is an assessment of the impact of the development on the character and appearance of the site and its surroundings.

The building is relatively plain and the potential exists through control of the materials of construction and landscaping to ensure that the building's impact is minimised. If these measures are implemented, then the view is that the proposal would accord with the Development Plan.

The applicant's contentions about the Section 106 are noted. The enforcement of the provisions of the Agreement would involve litigation. The requirement to close the existing petrol filling station did arise from a highway safety issue identified by the Highways Agency. Going to court and arguing that the provisions of the Agreement should be enforced, when the primary mover in requiring the Agreement is no longer involved in the issue, would be unlikely to succeed.

The consequence of allowing this development without a reference to the Section 106 Agreement would imply that the Authority would accede to the agreement effectively lapsing.

The County Highways Authority has no objection to the application and would be satisfied with the former Heage Lane access being closed. This would mean that the existing dwellings on the garage site would have an access via the new Heage Lane. Conditions are recommended to ensure that this happens in the first stage of the development.

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.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Before any other operation is undertaken on the site, the proposed extension to the existing road, identified on Drawing C252/5, shall be constructed to base course level. Within 1 week of the above road being available for use, the existing access to Derby Road, indicated on the attached plan, shall be permanently closed to traffic in accordance with a scheme that has received the prior written approval of the Local Planning Authority. The closure of the access shall then be implemented in accordance with the approved details.
2. Reason: In the interests of highway safety.
3. The car parking spaces/manoeuvring areas shown on the submitted plan C252 /5 shall be hard surfaced with a solid bound material and marked out prior to the first use of the development and thereafter retained for that purpose free of obstruction.
3. Reason: In the interests of highway safety.
4. If any unexpected, visibly contaminated, or odorous material is encountered during redevelopment (given any previous desk study, site investigation and/or remediation work) remediation proposals for the material shall be agreed with the Local Planning Authority.
4. Reason: To protect the environment and ensure that the redeveloped site is reclaimed to an appropriate standard.
5. No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by of the Local Planning Authority. The scheme shall incorporate sustainable drainage principles and shall be implemented in accordance with the approved programme and details.
5. Reason: To prevent the increased risk of flooding.
6. There must be no new buildings, structures (including gates, walls and fences) or raised ground levels (including car parking areas) within:
 - a) 5.0 metres of the top of the bank of watercourse, and/or
 - b) 4.0 metres of any side of an existing culverted watercourse,
 inside or along the boundary of the site, unless otherwise agreed by the Local Planning Authority.
6. Reason: To maintain access to the watercourse for maintenance or improvements and to provide for overland flood flows.
7. 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 private treatment plant shall be installed in accordance with the approved details before the development is first brought into use.

7. Reason: In the interests of pollution control.
8. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
8. Reason: To prevent pollution of the water environment.
9. Any vehicle wash/steam cleaning effluent shall be contained within a sealed and watertight cesspool, fitted with a level warning device to indicate when the tank needs emptying.
9. Reason: To prevent pollution of ground and surface waters.
10. Any tanks for the storage of oils, fuels or chemicals, hereby approved, shall be sited on impervious bases and surrounded by impervious walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks plus 10%. All filling points, vents or gauges and site glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and be protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge downwards into the bund.
10. Reason: In the interests of pollution control.
11. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
11. Reason: In the interests of the appearance of the area.
12. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
12. Reason: In the interests of the appearance of the area.

Informatives: 1. The above conditions are subject to the approval of the Local Planning Authority.

Your client will have received a letter dated 23 October 2003 from the Environment Agency regarding the above conditions and various requirements that require its approval. Your attention is drawn to those requirements.

16/12/2003

Item 1.6**Reg. No. 9 2003 1211 F****Applicant:**

Mrs Amanda Earp
73 High Street
Newhall
Swadlincote
Derbyshire
DE110HT

Agent:

P. Diffey
Peter Diffey & Associates
Cotesbach Villa
54 Woods Lane
Stapenhill
Burton On Trent
DE15 9DB

Proposal: The erection of a dwelling on Land to the rear of 216 218
High Street Newhall Swadlincote

Ward: Midway**Valid Date:** 09/10/2003**Site Description**

This site, forming the rear garden to 218 High Street, is on the east side of Beards Road some 17m from its junction with High street. It is some 11m wide by 15m deep.

Proposal

It is proposed to erect a three bedroom, two storey dwelling on the site. Access would be from Beards Road and there would be two off-street parking spaces.

Applicants' supporting information

The salient points of the applicants supporting statement are as follows:

The previous application was in outline and was for the erection of 2 semi-detached dwellings on the site. It was refused on grounds of over-development. The present application attempts to overcome this reason for refusal following a reassessment of the site area and capacity of the site taking into account national and local planning policy and guidance.

The proposed dwelling will be located 1m from the north-eastern boundary. A blank wall will face the adjacent semi-detached dwelling's gable wall. Because of the distance from that dwelling, and because the neighbouring house's first floor window overlooks the rear corner of the proposed gable, there should be no loss of light to that window (which does not light a habitable room). The position of the proposed house and lack of windows to habitable rooms in the gable means there should be no overlooking or loss of privacy or amenity suffered by the neighbour.

The proposed dwelling will be located an average of 3.5m from the south-west boundary. The dwelling, at its closest, will be 11.2m from windows at 216 High Street. The dwelling will be partially screened from views from the ground floor of both dwellings because of the existing out buildings and views from the first floor bedrooms will be across the proposed rear garden. Because of the distance and because the proposed dwelling is partially offset from the two High Street dwellings, there should be no loss of amenities to the dwellings.

The proposed dwelling looks towards a rear wall and gable. The gable is 6.2m from the kitchen. The living room has open views over the rear brick wall. Because the rear elevation of the proposed dwelling looks south-eastwards these boundary features should result in no loss of light to the property. Whilst the garden depth is not great, it is significantly larger than the gardens to the adjacent modern semi-detached dwelling and has a width and area, which more than fulfils normal amenity requirements relating to a dwelling of the size proposed (adequate room is available for gardening, play, hanging clothes, the erection of a storage shed etc).

Site History

An outline application for two dwellings on the site was refused in June 2003.

Responses to Consultations

The Highway Authority raises no objections subject to access amendment to improve driver/pedestrian intervisibility and the parking area to remain in perpetuity and be finished in a solid bound material.

Responses to Publicity

Objections from a neighbouring resident are summarised as follows;

- The back garden would be no more than 6m long.
- Inadequate sized gardens would remain for 216 and 218 High Street.
- The surrounding area is a reasonably spaced residential environment and the development would alter this characteristic.
- A new access would be close to the end of Beards Road where visibility is already poor.
- 216 and 218 High Street will have no parking except in Beards Road, close to an already awkward junction with a busy road.
- Because of the small size of the plot, any new building on it is likely to overshadow, overlook and create loss of privacy to neighbouring buildings and gardens. This will be a particular problem from the upstairs rear bedroom windows.
- A bungalow would be better.

Structure/Local Plan Policies

The relevant policies are:

Adopted Local Plan: Housing Policy 4 and 11

Draft Local Plan: Policy H1 and ENV21

Planning Considerations

The main issue central to the determination of this application is the adequacy of the site area to safeguard the amenities of neighbouring residents.

Planning Assessment

Although the proposed garden length of some 6m would fall short of the recommended 10.5m it would be in excess of the minimum garden area of 70 square metres. The rear elevation of the dwelling would not face neighbouring windows and therefore privacy would not be affected. The rear elevation would look toward the front garden of the neighbouring dwelling, which is not unusual in a residential area and therefore there would be no material harm caused to privacy in this regard.

The remaining private amenity space to 218 High Street would be much reduced to the rear yard area of 17 square metres. Whilst this is well below the recommended area of 50 square metres, this yard area is not untypical for a small 19th century dwelling and would suit someone not desiring a larger garden.

In all other respects regarding distances between dwellings, an adequate level of amenity would be safeguarded for existing residents and no material harm would be caused to their interests.

None of the other matters raised through the publicity and consultation process amount to materials 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.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Development shall not commence on site in connection with this approval until samples of materials to be used on the external elevations of the dwelling have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.
2. Reason: To ensure the materials are appropriate to safeguard the amenities of the area.
3. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. Brick eaves and verges shall be used with no no fascia boards unless otherwise agreed in writing by the Local planning Authority.
3. Reason: In the interests of the appearance of the building, and the character of the area.
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.

4. Reason: In the interests of the appearance of the area.
5. The dwelling shall not be occupied until the access has been arranged as indicated on the attached plan. The area shown hatched red shall be retained permanently free of all obstructions exceeding 600mm in height relative to road level.
5. Reason: To maximise driver/pedestrian intervisibility in the interests of highway safety.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, no development within the curtilage of the dwelling house under Schedule 2 Part 1 Class A and E of the Order shall be carried out without the prior planning permission in writing of the Local Planning Authority.
6. Reason: To safeguard the amenities of neighbouring residents.

Informatives:

To note and act upon as necessary the comments of the Coal Authority (see attached letter).

Further to the above Informative, the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner. This grant of planning permission does not give a warranty of ground support or stability, neither does it necessarily imply that the requirements of any other controlling authority would be satisfied.

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

16/12/2003

Item 1.7**Reg. No. 9 2003 1215 F****Applicant:**

Roger Hosking

Highfield Farm, Heage Lane

Etwall

Derby

DE656LS

Agent:

Roger Hosking

Highfield Farm, Heage Lane

Etwall

Derby

DE656LS

Proposal:

The siting of a modular building to provide a classroom and toilet facilities at The Paddocks Highfield Farm Heage Lane Etwall Derby

Ward:

Etwall

Valid Date:

03/10/2003

Site Description

The site comprises a mixed farm and educational establishment that has developed over the years. Access to the site is via a long track that is also a public footpath. The footpath goes into the countryside beyond the site boundaries. Hedges enclose the area immediately surrounding the site of the building and the site is well related to the existing farm and educational buildings.

Proposal

The building measures 18 metres x 10 metres and would provide a group meeting room toilet facilities, including provision for disabled persons, a kitchen and storeroom. It has a modular construction similar to many found on school sites around the country. It would have a magnolia colour finish.

Applicants' supporting information

The building has been made available to the business by Derby University and has been on site since the end of September. Because of the nature of the business, a large room is required to accommodate the groups that now visit the site. It is not expected that the presence of the building would add to traffic or sewerage as it is intended to serve existing staff and visitors to the farm.

The project has grown to be a success and is well recognised by the Youth Offending Service and the Education Department with many young people being able to return to main stream schooling after attending the farm for training.