

DEVELOPMENT CONTROL COMMITTEE – 14 December 2004

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. 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 similar cases.

14/12/2004

Item 1.1**Reg. No.** 9/2004/1058/D**Applicant:**

David Wilson Homes
Forest Business Park
Cartwright Way
Bardon Hill
Leicestershire
LE67 1UB

Agent:

David Wilson Homes
Forest Business Park
Cartwright Way
Bardon Hill
Leicestershire
LE67 1UB

Proposal: Application for the approval of reserved matters of application 9/1990/0515/O for substitution of house types to plots 122-142 and associated works at Area B Land To The North Of Castle Road Castle Gresley Swadlincote

Ward: Gresley

Valid Date: 18/08/2004

Proposal

The application has been amended so that the three storey apartment blocks, which were proposed fronting onto Castle Road and Brunel Way, have been removed from the scheme and the overall number of units proposed has been reduced from 43 to 21. The scheme now proposes five detached dwellings fronting onto Castle Road and Brunel Way to the rear of an access road hammerhead and a private drive providing access to the front of the dwellings and a mix of detached, semi-detached and terraced dwellings on the remainder of the site. The scheme differs little to that previously approved in 2002 although access to all the frontage dwellings is now from the front rather than two being served from the rear and the views into the site will be less enclosed by the frontage dwellings as they are set further apart to allow vehicular access between them. The scheme now proposes four less units than previously agreed in 2002 for this part of the site, the scheme proposes detached dwellings at the frontage of the site and semi-detached/terraced dwellings at the rear of the site, this mix of housing follows the general arrangement of the previously approved scheme.

Responses to Consultations

None received.

Responses to Publicity

None received.

Planning Assessment

The proposed scheme differs little to that previously approved, the access road is located in the same position and the arrangement of houses and house types are similar. The design and appearance of the proposed houses are considered acceptable. The view of the development from Castle Road and Brunel Way will be similar to that which has already been constructed to the other side of Brunel Way, which is characterised by detached houses accessed from a private drive at the front. The impact of the proposal on the appearance of the streetscene is therefore considered acceptable. The scheme will afford views through into the site between the dwellings which would not have been achieved with the previously proposed three storey apartment blocks which would have enclosed the site frontage.

Recommendation

GRANT permission subject to the following conditions:

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

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

2. 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.

3. 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.

4. Prior to the first occupation to which it relates, private driveways shall be laid out and constructed and surfaced with a solid bound material at a gradient no steeper than 1 in 15 and shall incorporate measures to prevent the flow of surface water onto the highway.

Reason: In the interests of highway safety.

5. All areas shown for the parking of cars shall be made available prior to the first occupation of the dwelling to which they relate. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), the parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained as such or as may be otherwise approved in writing by the Local Planning Authority.

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

6. Notwithstanding the originally submitted details, this consent shall relate to the amended drawing no. S1106/100/01 Rev: AV.

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

Informatives:

The proposed development lies within a coal mining area. In the circumstances Applicants should take account of any coal mining related hazards to stability in their proposals. Developers must also seek permission from the Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at www.coal.gov.uk.

14/12/2004

Item 1.2**Reg. No.** 9/2004/1094/F**Applicant:**

Mr R Hosking
 Highfield Farm Heage Lane
 Etwall
 Derby
 DE65 6LS

Agent:

Darryn Buttrill
 Bi Design Architecture
 First Floor Studio
 79 High Street
 Repton
 Derbyshire
 DE65 6GF

Proposal: The erection of a single storey granny annexe at Highfield Farm Heage Lane Etwall

Ward: Etwall

Valid Date: 26/08/2004

Site Description

The site lies immediately adjacent to the farmhouse. There are no current boundary features which would separate the site from the open field to the rear.

Proposal

The extension would contain living accommodation of living room, dining kitchen, a bathroom, 2 bedrooms and a farm office to serve the whole farm. There is also a garage and carport facility. The existing garden area to the house would be extended to incorporate the extension of the house. An unauthorised temporary bungalow would be removed from the site as well a temporary building that is currently used as the farm office.

A plan accompanying the application gives a perspective view of the proposed front of the farmhouse and the new extension.

Planning History

The farm has a long and varied history. In terms of residential accommodation, there are 2 permanent dwellings at the site, one occupied by the owner and one by a farm manager. A recent appeal for a third dwelling at the site was dismissed (the appeal decision was reported at the last meeting). Other recent applications have been for the erection of new and replacement chicken units that form the basis of the farm business. However, the farm owners also rear other animals and operate an open farm centre. In addition to the open farm, the owner and his family operate as a centre for young people who have problems with school and in the community. Accordingly the young people are provided with a practical education as well as learning basic skills through that experience. A teacher is employed at the site on a full-time basis.

Responses to Consultations

Etwell Parish Council considers that the extension is just another way of getting a dwelling on the site. It has a large footprint and would represent an intrusion into the countryside

Responses to Publicity

None

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 & 13,

Emerging Local Plan: Policy ENV 7 & 21.

Planning Considerations

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

- The Development Plan
- The impact on the countryside

Planning Assessment

The Development Plan requires that new residential development in the countryside should be necessary for the operation of an established rural business. The proposed extension contains all the facilities to be occupied as a separate dwelling. Whilst a permanent third dwelling on the holding has been resisted, the provision of additional living accommodation attached to the house and linked to it both physically and by condition would not appear that different from a traditional residential extension. The condition would be enforceable in the event that complaints were received.

In terms of the needs of the holding as an agricultural operation, the erection of a third dwelling was described as desirable but not essential to the agricultural operation of the farm. If accepted the extension would not be a separate dwelling and would meet the desirable situation outlined in the independent consultant's report (as submitted with the application for the third dwelling) on the overall business carried out at the farm without prejudicing the proper controls over unrestricted residential development in the countryside.

The impact of the extension on the character of the area has been considered in the design of the proposal. The extension of the dwelling would have the appearance of two outbuildings attached to the main farmhouse.

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

3. The living accommodation hereby permitted shall be occupied solely by members of the household of Highfields Farmhouse or by staff employed at the farm, and shall not be severed from the main house as a separate and unconnected dwelling.

Reason: Permission is granted in the light of your particular personal circumstances. Although the erection of an extension to provide additional accommodation to be used in conjunction with the existing dwelling is acceptable, the Council would not normally be inclined to allow the formation of a separate residential unit in this locality. Since the extension includes all the domestic facilities necessary for the establishment of a separate self-contained unit, the Council hereby seeks to make it clear that separate occupation is not authorised by this permission.

14/12/2004

Item 1.3**Reg. No. 9/2004/1309/U****Applicant:**

J Edward Hicklin
Chairman D A H S
Field House Farm
Snelsmoor Lane Cheallston
Derby
DE73 1TQ

Agent:

J Edward Hicklin
Chairman D A H S
Field House Farm
Snelsmoor Lane Cheallston
Derby
DE73 1TQ

Proposal: The use of part of the site for the flying of model aircraft The
Derbyshire County Showground Borrowwash Lane Elvaston

Ward: Aston

Valid Date: 30/09/2004

The application is brought to committee on the instruction of Councillor Atkin

Site Description

The site is a flat field lying opposite to the main entrance to Elvaston Castle. The access is as used when the County Show is underway.

Proposal

The applicants seek to fly model aircraft from the site. No buildings are proposed.

Applicant's Supporting Information

The applicant has supplied details of noise readings taken in trial flights, indicating that no disturbance would be caused. Details of the club are also included with the application.

Responses to Consultations

The Parish Council objects for the following reasons:

- a) If permission is granted it could lead to application for buildings.
- b) The applicant's noise appraisal is not accepted, as it is not independent.
- c) There could be conflict with air traffic.
- d) The flying of model aircraft would be contrary to policy guidance on the after use of sand and gravel sites in the locality.
- e) The owners of the land Tarmac have not been notified.

The Pollution Control Officer has recorded noise from test flights and recommends a temporary permission to enable the impact on this particular locality to be assessed.

The Highway Authority has no objection in principle subject to cutting back of the roadside hedge to achieve adequate visibility.

The Environment Agency has no objection.

Responses to Publicity

4 letters have been received from 3 local households, objecting as follows:

- a) Residents would be likely to experience noise disturbance, particular as flying would likely be undertaken at weekends, when people expect quietness and relief from quarry noise.
- b) The flying of model aircraft is prohibited within the grounds of Elvaston Castle.
- c) There could be conflict with air traffic.
- d) This noisy use would be out of character with the local environment.
- e) The access would not be safe due to poor visibility.
- f) Ground nesting and other birds would be affected.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 4 & 7 and Leisure and Tourism

Policy 1.

Local Plan: Environment Policy 1, Green Belt Policy 6 and Recreation and Tourism Policy 1

Emerging Local Plan: Policies ENV6 and LRT3

Planning Considerations

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

- The principle.
- Impact on the openness of the green belt and the general character of the countryside.
- Noise
- Highway safety.
- Flooding
- Nature conservation

Planning Assessment

Being a recreational use that clearly needs a large amount of open space to operate, and requiring no buildings, the proposal is appropriate to the green belt and necessary to a location in the countryside. As such the principle is acceptable.

The impact of the use would be limited to those times when flying were to take place. Therefore there would be limited impact only on the openness and character of the area. As the fields are

low lying the existing hedgerows would act as a screen to visual activity, including the parking of cars, on the ground.

Whilst available evidence indicates that noise levels would not be intrusive Circular 11/95 gives the Local Planning Authority the basis to impose a trial period to enable the actual impact in the locality to be assessed. On the advice of the Pollution Control Officer this trial period should be twelve months.

Subject to a condition requiring visibility splays to be provide the proposal would not have adverse impact on highway safety.

As the use requires no permanent buildings or presence on the site the risk to flood control interests is negligible.

Nesting birds have separate legal protection.

The Civil Aviation Authority is empowered to regulate all civil flying activities over the United Kingdom, including model aircraft flying.

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. This permission shall be for a limited period only, expiring on 31 December 2005 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: To enable the Local Planning Authority to assess the impact of noise upon the aural amenities of local residents.

2. Hours of use shall be restricted to 8am to 7pm Mondays to Saturdays, and 10am to 5pm Sundays.

Reason: To protect the aural amenities so local residents.

3. Flights shall be restricted to within the proposed model flight paths shown on the applicant's submitted supporting information. There shall be no flying within 200m of any noise sensitive premises.

Reason: In the interests of the aural amenities of local residents.

4. The maximum noise energy output of the models shall be 82dB(A) at 7m.

Reason: In the interests of the aural amenities of local residents.

5. Prior to the first use of the development hereby permitted, the land either side of the access, in advance of sight lines measuring 2m x 120 m, shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level.

Reason: In the interests of highway safety.

Informatives:

Further details on measurement techniques are available from the Code of Practice on Noise from Model Aircraft 1982.

It is not deemed necessary for hedgerow to be removed in order to comply with condition 5.

14/12/2004

Item 1.4**Reg. No.** 9/2004/1460/F

Applicant:
 SDDC Community & Leisure Services
 Manager
 Civic Offices
 Civic Way
 Swadlincote
 Derbyshire
 DE11 0AH

Agent:
 SDDC Community & Leisure Services
 Manager
 Civic Offices
 Civic Way
 Swadlincote
 Derbyshire
 DE11 0AH

Proposal: **Erection of boiler house and wood chip fuel store at Forestry
 Centre Rosliston Farm Burton Road Rosliston Swadlincote**

Ward: **Linton**

Valid Date: **04/11/2004**

Site Description

The site is located to the rear of the overflow car park area for the forestry centre. There are semi-mature trees to the rear and sides of the site and there is a hedge on the forestry centre boundary with the road.

Proposal

The proposal is a wood chip store and boiler house building, measuring 7.5 metres by 3.6 metres and with a ramp of approximately 8.5 metres in length rising up to the wood chip store door which is 2 metres above ground level. The building has a monopitch roof, which is 3.5 metres high at its highest point, and on the rear of the building there is a chimney which extends 6 metres in total from ground level, 3 metres above the rear of the building, however only the very top of the chimney will be visible from the front of the building which is higher than the rear. The building is to be faced with dark brown plastisol coated profile steel cladding.

Planning History

4 log cabins were approved on the forestry centre land last year and the boiler house is to serve these and the centre itself.

Responses to Consultations

The Environmental Health Manager has no objections.

Responses to Publicity

None received.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan:

Local Plan: Environment Policy 1

Emerging Local Plan: Policy ENV 21

Planning Considerations

The main issues central to the determination of this application are the design and materials proposed for the building and the impact of the structure on the countryside.

Planning Assessment

The building is a small scale structure and is to be faced with dark brown coloured sheeting, it is considered that the proposed materials are acceptable for the countryside location and the design and external appearance of the building are considered acceptable. The building will be well screened by the existing trees to the sides and rear of the site, particularly over time as they mature, the proposal will also be screened from the public highway by the existing boundary hedge. In view of the appearance of the structure and the screening around the building it is considered that the development will not have a significant adverse impact on the character of the countryside.

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.

Informatives:

The proposed development lies within a coal mining area. In the circumstances Applicants should take account of any coal mining related hazards to stability in their proposals. Developers must also seek permission from the Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at www.coal.gov.uk.

Appendix A (Copy of previous report re: Item 1.1 – 9/2004/1058)

Site Description

The site is the easternmost point of the large residential development site off Castle Road, Castle Gresley, the proposed plot changes are on the land directly to the north of the roundabout at the entrance to the development.

Proposal

The application proposes a change of house type on plots 122 to 146 and an additional 18 plots, 186 to 203. The previous reserved matters approval on the first phase of development was for 185 plots and the majority of these dwellings are nearing completion. The application proposes changing the house types on this eastern corner of the site to include three-storey apartments which will therefore increase the number of plots in the first phase of development to 203.

The proposed three storey blocks contain two bedroom apartments and are aligned around the northern side of the main entrance to the development facing onto Castle Road and the primary road into the development site. The blocks are sited over 15m from Castle Road separated by a footway/ cycleway and landscaped strip. Parking and bin stores are proposed at the rear of the apartments.

The rest of the dwellings proposed are a mix of detached, semi-detached and terraced three and two storey properties of similar types and layout as constructed on the rest of the phase one development and as previously proposed on this site.

Applicants' supporting information

The Applicant has submitted an amended plan and made the following comments in relation to points raised by the Highway Authority:

- The apartments, plots 122-146, have been linked to give a continuous street scene and set back from Castle Road. Extending the turning head to Road 9 through the apartment scheme would damage this street scene.
- Just over 100% parking has been provided for the apartments, which is within the guidance set out in PPG3.
- The position of the bin store has been amended to the rear of Plot 190, thus giving a distance of 25 metres from the doors to the carriageway.
- The driveways to plots 198 and 199 have been amended to allow easier access on to the driveways from the private drive whilst still maintaining a private drive width of 4.25m, as set out in Derbyshire County Council's Design Guide.
- In respect of the shared footpath cycleway, this is not within the application site and has been previously approved under the original Reserved Matters application for the 185 units.

Planning History

Reserved matters approval for the construction of 185 dwellings was granted in 2002.

Responses to Consultations

The County Highway Authority has stated that the plots are provided with pedestrian access from what appears to be the main entrance in front of the buildings, leading to Castle Road or 'Road 1'. It is entirely inappropriate that any parking associated with these dwellings should take place on either of these roads – Castle Road, which is a classified road forming the main route from Church Gresley to the A444, and also Road 1 (Brunel Way) which is to become the main distributor road into and through this major development site and, as such, would become much busier as the development progresses. This layout with the flats fronting onto these roads will tend to encourage such parking, which is not in the best interests of highway safety.

The flats are each to be provided with a single parking space with no provision for visitor parking nor any proper means of access for delivery or refuse collection vehicles. These flats need to be provided with much better facilities for access by service, delivery and visitors' vehicles. Consideration should be given to providing a service road or drive to the front and looping round the flats.

Driveways to Plots 198 and 199 require 6 metres manoeuvring space in front. The shared cycleway/ footpath should be designed on a much straighter alignment for safety reasons.

Responses to Publicity

None received.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 3

Local Plan: Housing Policies 2 and 11

Emerging Local Plan: Policies H4 and ENV 21

Planning Considerations

The main issues central to the determination of this application are the external appearance of the development and impact on the street scene, access provision and highway safety.

Planning Assessment

The proposed three-storey apartments will wrap around the northern side of the main entrance to the development site and follow the alignment of Castle Road and the principle estate road (Brunel Way). The design and appearance of the apartment blocks are considered acceptable and the overall bulk is broken down by the incorporation of elements with different ridge heights including a two-storey link block and with projecting gables on the front elevation. It is considered that the development will have an acceptable appearance within the street scene; there are already a couple of three storey buildings on the other side of Castle Road from the site. The apartments are set back from Castle Road to the rear of a landscaping strip and are a significant distance from any neighbouring dwellings; the scheme will therefore have no adverse impact on the occupiers of any neighbouring properties in terms of overlooking or loss of privacy. The layout and house types for the remaining plots, 186 to 203, are similar to those already approved on the site and elsewhere within the housing development.

The Highway Authority has raised concerns over the fact that the apartments would appear to have pedestrian front doors facing Castle Road and Brunel Way which they consider may encourage parking on the main roads. However the apartments have main doors on both the front and rear elevations and parking is provided through the estate at the rear of the apartments. It is considered unlikely that occupiers of the dwellings will choose to park on the main roads especially as there is a wide landscaped strip and cycle path between the 'front' of the apartments and the roads. The proposed parking provision for the apartments and other dwellings accords with the Council's parking standards. The Highway Authority suggest that consideration should be given to the provision of a service road or driveway looping around the front of the apartments however it is considered that this would adversely affect the appearance of the development and the street scene by changing the alignment of the dwellings and as the site is relatively level it would create an unattractive hard surface which would be clearly visible from the main road. It is not considered that a reason for refusal of the application could be substantiated on highway grounds.

Recommendation

GRANT permission subject to the following conditions:

(as above)

APPEAL DISMISSED

Appeal by Carruthers

The erection of an agricultural dwelling together with the installation of four fish breeding/growing ponds and breeding shed at

Springwood Fisheries Ashby Road Melbourne Derby (9/2003/1450)

The application was refused permission for the following reason(s):

The proposed hatchery / breeding ponds and building and the associated dwelling, are not necessary to the operation of an established long-term viable rural based activity and a location in the countryside is not necessary. Therefore the impact of a dwelling and breeding building in this location, having regard to the bulk form and design of the particular dwelling proposed, would be an unwarranted and harmful intrusion into the rural landscape to the detriment of it's character and appearance, thereby contrary to the following policies: Derby and Derbyshire Joint Structure plan General Development Strategy Policy 4 and housing policy 6; South Derbyshire Local Plan Environment Policy 1 and Housing Policy 8; and Emerging South Derbyshire Local Plan Policies ENV3,7 & 21.

Main Issues

The inspector considered the main issues to be whether the proposed dwelling is justified by the needs of the fisher business.

The inspector noted that the appeal site is located in open countryside situated 5 minutes from Melbourne, a large village with a wide range of facilities and an extensive choice of housing types. He commented that appraisal submitted in support of the application was written in very general terms and did not persuade him that there is an existing functional need for a dwelling. The fact that the business has grown, even with the appellant living 10 miles away, suggested that there is no functional need for the dwelling and that the work that must be carried out can be done so in the daytime as a place of work rather than a place of residents.

The inspector acknowledged that trespass, poaching and predation is a problem but did not consider security a good enough reason to justify a dwelling on this site. He considered that even if evidence had been provided of security incidents the occupation of a dwelling on site may not be a deterrent as fish will not alert anyone to danger. The inspector also considered that if a pond were to freeze there is not much difference in what could be done if the appellants lived on site or at their current home five minutes away and that it did not appear to be demonstrated that other options to help with these problems had been investigated.

The inspector did not view the proposed breeding ponds as a need for a person to live on site, which in any case did not represent an existing functional need. He considered the supervision of the proposed night fishing would require people to be awake and employed when those activities were taking place, rather than resident on the site and that this would also in its self form a level of security for the site.

The inspector viewed that a workers dwelling should be regarded as an expense to be borne by the business but the dwelling proposed would be expensive to construct and could not be sustained by the income likely to be generated by the enterprise. He considered the design of the dwelling to be driven by personal preference rather than the needs of the enterprise, a need that could be achieved in Melbourne or one of the other nearby settlements.

The inspector concluded that although the application site is screened this does not provide a sufficient argument for new builds in the countryside. This would be a harmful intrusion and contrary to current plan policies.

In consideration of the above and insufficient evidence to show a need for overriding current policy the inspector dismissed the appeal.

APPEAL DISMISSED

Appeal by Mr Hughes

The erection of a detached chalet style dwelling and single garage on Land Adjoining 70 John Street Newhall Swadlincote (9/2003/1535)

The application was refused permission for the following reason(s):

The proposal would result in the removal of one or more garden trees (subject to SDDC tree preservation order 219) which are individually important in the street scene being visible from the public highway and a number of neighbouring properties. The trees and the undeveloped garden provide visual relief in an otherwise built- up residential area where there are few mature trees and incidentally open spaces contrary to PPG3: Housing, GDSP 1, 2, 3, Housing Policy 3 and Environment Policy 16 of the Derby & Derbyshire Joint Structure Plan, Housing Policy 4 and Environment Policy 9 of the South Derbyshire Local Plan and Policy ENV 3 and 8 of the Emerging Local Plan.

Main Issues

The Inspector considered the main issue to be the effect the proposed dwelling and garage will have on the character and appearance of the surrounding residential area.

The Inspector noted that the appeal site is in the side garden of the semi-detached dwelling which is bounded on three sides by the gardens of other residential properties. The proposal also includes access from The Leys.

The inspector noted that there are two protected trees within the appeal site and that they can be seen from the public highway. The development would result in the definite loss of at least one of these trees, possibly two. The inspector considered that the trees provide visual relief in a residential area where there are few mature trees and that the loss of even one of these trees would harm the character of the surrounding area and be contrary to policies.

The inspector considered that the large side garden provided amenity green space in an otherwise built up area and that the loss of the garden would increase the urbanisation of and harm the overall character of the surrounding area.

The inspector concluded that the proposed development, which would result in the loss of one or two trees, and the development of the side garden of the appeal site would have an adverse effect on the character and appearance of the surrounding residential area.

APPEAL DISMISSED

Appeal by Mr & Mrs Johnston

The erection of a second storey extension at 2 Barrons Court Elvaston Derby (9/2003/0981)

The application was refused permission for the following reason(s):

The proposal falls short of the minimum distances set out in the Councils supplementary planning guidance on extensions. Therefore the extension would result in overbearing, overlooking and reduction of light to the occupiers of the adjacent dwelling at Vicarage Farm, contrary to the provisions of Housing Policy 13 of the adopted South Derbyshire local plan.

Main Issues

The inspector considered the main issues to be the effect of the proposed development on the living conditions of occupiers of the adjoining property, Vicarage Farm, especially in relation to any visual intrusion, loss of light or overlooking.

The inspector noted that the appeal property is a detached dwelling that backs onto Main Road and that the extension would not be a large one and would have no appreciable effect on the openness of the Green Belt. The inspector also agreed with the Council that the proposal would comply with development plan and emerging local plan policies, which seek to protect the Green Belt.

The inspector noted that the proposal would be above an existing single storey section of the appeal property, which is close to the boundary with Vicarage Farm and that the rear elevation of Vicarage Farm contains a number of main windows on both floors. He noted that the proposal would be 7m from the nearest ground floor window which is substantially less than the Council's SPG which advises a 12m distance in order to avoid intrusion and loss of light. The inspector also noticed that although the boundary is partially screened there is currently an overbearing effect of the appeal site upon the rear windows at Vicarage Farm. He considered that the proposal would increase this overbearing effect resulting in a significant degree of visual intrusion and loss of light.

The proposal would include a balustrade and full glazed patio doors, which would directly face Main Road and, obliquely, the rear elevation of Vicarage Farm. The inspector noted that the proposed first floor patio doors would be approximately 13m from the furthest ground floor main window, which is substantially below SPG' minimum of 21m. The inspector viewed that despite the trees and brick wall on the boundary between the two properties, the proposal would result in a significant level of overlooking of the ground floor rear windows of the neighbouring property and a serious loss of privacy.

The inspector concluded that the proposed development would have a serious effect on the living conditions of the occupiers of Vicarage Farm, especially in relation to visual intrusion, loss of light and overlooking, contrary to Local Plan Housing Policy 13 and advice give in SPG.

APPEAL DISMISSED

Appeal by Mr Garner

Conversion into a dwelling of a farm building at Home Farm, Foremark, Milton, Derby
(9/2002/1222)

The application was refused permission for the following reason(s):

The proposal is not in accord with Housing Policy H1 of the draft South Derbyshire Local Plan, which seeks to resist residential development away from settlements. The conversion of this isolated barn to residential use does not aid sustainability, as occupants would need to rely on the private car for all journeys. As such the proposal is also contrary to General Development Strategy Policy 1 of the Derby and Derbyshire Joint Structure Plan.

Main Issues

The inspector considers that there are two main issues:

- The effect of the development on the character and appearance of the surrounding countryside and the setting of the adjacent listed building: and
- Whether national and local planning policies support residential re-use, having regard in particular to the principles of sustainable development.

The inspector noted that the proposed conversion would be a further stage in the process of restoring and bringing back into use the run-down historic buildings at Home Farm.

The inspector noted that the cart shed, despite it's distance from the farmhouse is historically ancillary to the dwelling and has value as part of the farm complex. He considered it to be "capable of conversion without substantial demolition or alteration."

The inspector noted the comments of the Council which believes the proposal would have an acceptable impact on the character of the countryside with minimal impact on the setting of the listed farmhouse building.

The Inspector commented that the existing barn-to-dwelling conversion demonstrates that there would be a change of character and curtilage if the appeal were to be allowed. He considered that the features associated with domestication such as television aerials and oil tanks would contribute to a process of habitation altering the rural character of the landscape which would be further exacerbated by the relative detachment of the new dwelling from the main farm complex, significantly extending this "enclave of residential development into the countryside".

The inspector concluded that the proposal would be detrimental to the character and the appearance of the countryside.

Due to the separation distance the Inspector considered the impact on the setting of the listed building to be slight. The impact of the new-build element on the cart shed would detract from the intrinsic value of the cart shed as a simple ancillary building creating a much larger dwelling than he considered necessary to conserve the historic structure contrary to Structure and Local Plan policies.

The inspector noted that national and local plan policies support the re-use of buildings in the countryside for business or employment use in the first instance, only permitting residential re-use if conversion to some form of economic use proves not to be viable. He also noted that particular support is given for buildings closely related to country towns and villages, and for schemes which

provide housing in accordance with policies in PPG3: *Housing* providing sustainable development objectives are met. The inspector acknowledged that adopted Local Plan policy HP7 does not refer to business re-use, but as the later structure plan policy is more consistent with current advice, it is the part of the development plan that carries greater weight.

The inspector noted that the appeal site is some distance away from Repton, the nearest settlement with facilities. The site is only accessible by private car, and as a visit to the nearest shop or bus service requires a trip to Repton, it is clear that a significant car journey for the most basic services is required. This is contrary to policies which aim to minimise travel by private car. He added that a further dwelling at Home Farm would not contribute to the building of a community and subsequently the development does not accord with sustainability objectives of planning policies.

The inspector accepted that the location of the site limited the range of possible uses but felt other options could be explored such as leisure or a live/work mixed use.

The inspector noted that no marketing of the property has taken place and that without such testing it is impossible to predict a suitable use. He added that there needs to be some attempt to secure business re-use as part of the structure plan and emerging plan and if this cannot be this is still not a location where conversion to housing should normally be permitted.

The inspector concluded that the conversion would be detrimental to the character and appearance of the countryside, and that the scale of the new building would detract from the simple agricultural origins of the cart shed. He added that because of the remote rural location of the site the proposal would be contrary to the objectives of sustainable development, the main area of current planning policy.

The inspector took into account the claimed benefits of the scheme, including the surrender of an extant planning permission for converting a barn to holiday accommodation and the possibility of the scheme cross-subsiding the restoration of the remaining historic buildings on the site, but did not consider that these outweighed the policy objections to the proposal.

In consideration of the above the appeal was dismissed.

APPEAL ALLOWED

Appeal by Topliss

Outline application (all matters to be reserved) for the erection of a house at Land Forming Part Of The Garden Of 12 Rose Tree Lane Newhall Swadlincote (9/2003/1275)

The application was refused permission for the following reason(s):

The proposed development, if permitted, would involve the creation of a new vehicular access from the public highway at a view point where visibility is substandard, due to boundary features not within the applicants control, to the detriment of highway safety contrary to transport Policy 4 of the Derby and Derbyshire Joint Structure Plan, Transport Policy 6 of the Local Plan and Policy T1 of the emerging Local Plan.

Main Issues

The inspector considered the main issue to be the effect of the development on road safety. He agreed with the Council's view that the site was acceptable in principle for residential development.

The inspector noted the narrowness of Rose Tree Lane and the restricted visibility from existing accesses along the lane. He considered it to be a road where drivers, cyclists and pedestrians would proceed with caution.

The inspector considered that although the existing access where 12 Rose Tree Lane joins the carriageway is restricted the use of it by the occupants of the proposed house would be unlikely to increase the risk of accidents occurring although it would deprive the existing house of off-street parking. He considered the provision of a new access and parking area for the existing house essential if the development is to not to increase parking in the road and interfere with traffic flow.

The inspector noted that the visibility standards are not met by the existing or new access according to the Highway Authority's policy documents but saw fit that these standards should be assessed in the circumstances of each case. The inspector concludes that in this circumstance the visibility splays do not need to be as large as those set out in the guidance.

The inspector commented that provision of more information regarding the nature of the existing and proposed access was essential to ensure that development takes place in a satisfactory manner but added that a design could be achieved whereby vehicles could leave and enter the site without detriment to highway safety.

The inspector concluded that the appeal should be allowed but due to the very limited information supplied with the application permission should be granted subject to conditions requiring arrangements for access and parking to be agreed.

The appeal was allowed subject to conditions regarding the submission of reserved matters detailing siting, design and external appearance of the building and means of access thereto and landscaping of the site and the submission of details regarding parking and treatment of roadside boundary.

