

06/04/2006

Item 1.7**Reg. No.** 9/2005/1261/F**Applicant:**

A S Thompson
Dovecote House
Heage Lane
Etwall
Derbyshire

Agent:

B. Williamson
Gilson Design Consultants Ltd
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Willington
Derby

Proposal: Demolition of existing two dwellings and the erection of two detached dwellings on the Site of Olivette and The Briars Dalbury Lees Ashbourne

Ward: North West

Valid Date: 24/10/2005

Site Description

Two dwellings currently occupy the site fronting on to the road that runs through the village. One dwelling is a bungalow; the other has very much the appearance of a wooden hovel but records indicate that the building was occupied as a dwelling. The site slopes away from the road towards the open countryside beyond.

Existing dwellings flank the site. White Cottage is a traditional cottage that has been considerably adapted and extended from its original form as a pair of 1-up and 1-down cottages. It has main habitable room windows that look towards the site that arise from its original occupation referred to above. However, the extensions that have occurred to the original dwellings mean that there are alternative windows to the habitable rooms that look towards the road and the countryside that lies to the west. 'Antlers' is the dwelling that lies to the south of the site. It has some windows in the side that look north over the site. One of these is the only window to a bedroom on this side of the house. The remaining windows and doors in this flank elevation are to stores or bathrooms.

There are dwellings on the opposite side of the lane but these are set well back from the road.

Proposal

The applicants are proposing to replace the two single storey dwellings with two traditional dwellings that would be sited close to the site of the existing dwellings and would be located further back into the site than the existing dwelling.

Access to the plots would be from the lane.

Applicants' supporting information

Since submission the application has been amended twice to reduce the scale of the proposed dwelling that would lie adjacent to the White Cottage and to reflect accurately the distance between the existing and proposed dwelling. It introduces a one and a half storey element to the proposed dwelling that lies close to the boundary of the site. It would present a 3.25 metre high gable wall to the boundary at a distance of 5.0 metres from the White Cottage. The two-storey element of the building would be 12 metres from the main windows in the White Cottage. A 1.8 metre high close-boarded fence is proposed between the two dwellings along the boundary.

The dwelling that is proposed adjacent to Antlers has not been amended

The second amendment was submitted to clarify the distance between the 2-storey element of the dwelling on Plot 2 adjacent to the White Cottage. The application drawing is marked that the minimum distance between the White Cottage and 2-storey element on Plot 2 will be 12 metres. The assertion is made on the basis of an actual measurement of the site and the land available.

Planning History

There is no recent relevant planning history on the site.

Responses to Consultations

Dalbury Lees Parish Council strongly objects to the development as proposed for the following reasons:

- a) The number of dwellings in the village has nearly doubled in the past years and this is directly contrary to the provisions of PPS 7. The development that has taken place and is now proposed is not in keeping or of a scale that is commensurate with its location nor is it sensitive to the character of the countryside and local distinctiveness. This requirement is repeated in Housing Policy 5 of the adopted Local Plan. The density of the development that has been permitted is akin to that seen in an urban area and is utterly out of context with a small rural village.
- b) There is no basic infrastructure in the village to sustain this continued expansion. There is a pub but the nearest shops are in Micklegate some 5 miles away. Access to junior schools is by car and school busses provide access to the senior schools. Public transport is limited to a morning and afternoon service three times a week together with the community bus. The majority of movements to and from the village are by car and given the nature of the properties, most have 2 or 3 cars.
- c) The local and affordable housing needs of the locality are not being met by any of the development that has taken place or has been recently proposed.

Specific to the development of the application site the Parish Council has the following objections:

- a) The submitted plans are not to scale and misrepresent the position of the adjacent dwellings. This makes it difficult for neighbours to assess the impact of

the development on their properties and for the District Council in determining the validity of the application.

- b) Both properties are so close to the boundaries of the site such that the development is fundamentally in breach of the requirements of the Housing Design and Layout SPG document published by the District Council. The ridge height of Plot 1 would be considerably higher than the adjacent dwelling, 'Antlers' and Plot 2 would cause major detriment to the light and enjoyment of the White House.
- c) The existing buildings are small and one is a wooden shack. The proposals involve a massive increase in the number of bedrooms from 3 to 8, which it is suggested would be contrary to the tenets of PPS 7 and Housing Policy 5 of the Local Plan.
- d) Neither property has been occupied for at least 15 years (25 years in one case); thus there would be an additional increase in the number of vehicle movements through the village as there would be at least 2 or 3 cars present at and it is almost inevitable that vehicles would reverse out onto the highway from the dwellings causing a traffic hazard.
- e) The Parish Council considers that one modern dwelling should be erected on the site of the dwellings. However, if 2 are to be permitted then they should both be single storey and be of a size commensurate with the relatively small size of each site.

The County Highway Authority notes that accesses could be formed without planning permission under permitted development rights. Accordingly, there are no objections to the proposals as they are a one for one replacement of the existing dwellings subject to conditions covering the provision of the accesses, pedestrian intervisibility splays, a visibility splay across the site frontage, construction of a footway across the site frontage and provision of parking space.

The Environmental Protection Manager has no objection.

Responses to Publicity

Two letters were received in response to the original consultation and a further one, from an original objector, to the reconsultation. The objections can be summarised as follows:

- a) The ridge height of both dwellings will be considerably higher than the adjacent property and there would be a flank wall very close to the boundary that would shade a bedroom window in that wall that is the only source of light to that room.
- b) Surface water already drains from the site into the adjacent dwelling and the proposed soakaways would certainly worsen the situation, if this method of drainage is to be used then the soak away should be located as close to the west boundary as possible.
- c) The space to the boundary of the dwelling should be maintained as shown because there would be a need to maintain the flank wall.
- d) The roadside verge should be retained and the buildings plots should not be allowed to encroach onto the highway as has happened elsewhere in the village.
- e) The proposed dwelling would overshadow and overlook the primary windows at less than the 12 metres required in the Housing Design and Layout booklet. This

situation is emphasised by the fact that the windows face south and enjoy considerable light levels.

- f) The submitted drawings do not accurately reflect the position of the existing dwelling; the White House is only 5 metres from the boundary not 6.5 as suggested on the application plan.
- g) In response to the reconsultation the same objectors repeat their concern that the drawings are inaccurate and the windows referred to above are only 5 metres from the site boundary.
- h) There remains a blank wall just 1.0 metre from the common boundary. There is no reference on the amended elevation to the door and side window to the utility room that would look out from the proposed side gable. This would still overlook the White House and if treated as a kitchen window there should be 18 metres between it and the flank windows in the White House.
- i) The amended scheme still shows the two-storey element within 12 metres of the flank windows of the White House. It is understood that single storey elements of buildings will be judged on their individual merits but the gable next to the boundary is not single storey.
- j) The garage has no turning area in front of it this would cause vehicles to reverse out onto the highway.
- k) The proposals clearly breach the guidelines for overshadowing and overlooking and measurements taken by the objector indicate that the dwelling should be sited no further back into the site than the rear of the existing dwelling. Further plans should be submitted that meet the requirements of the Council's published guidance.

In response to the consultation on the latest amended plans the following objections have been made in addition to those listed above:

- a) There remains concern about the relationship between the houses either side of the proposed plots, the resulting loss of light and the potential for parking on the highway. Lorries use the lane and have great difficulty in passing each other without mounting the grass verges.
- b) The dwellings may be altered or extended without the need for planning permission that would be out of character with the area and be over-dominant on the adjacent dwellings because of the higher ridgeline of the house proposed on Plot 1.
- c) The minimum distance between dwellings has been breached to an even greater extent than previously. It does not meet the requirement of 9 metres in the Council's adopted standards. The impact on the north facing bedroom window in Antlers is re-emphasised in the latest letter.
- d) The plots are too small and a single dwelling should be erected.
- e) The windows of the White Cottage would be over shadowed, it is recognised that single storey parts of proposals are treated on their own merits. The 'single' storey element of the dwelling on Plot 2 is clearly not single storey and
- f) the impact of the dwelling is therefore greater; especially given the difference in levels between the two plots.

Development Plan Policies

The relevant policies are:

RSS8: Policies 2 & 3;

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

Local Plan: Housing Policy 5.

Planning Considerations

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

- The Development Plan
- The impact on the neighbouring dwellings
- The proposed accesses

Planning Assessment

The replacement of dwellings within a settlement framework has always been acceptable from a Development Plan policy point of view. The issue is one of whether the scale and character of the proposals are in keeping with their surroundings and whether the proposals would adversely affect the living conditions of the occupiers of the neighbouring dwellings. These are the main points identified by the Parish Council and the objectors to the development.

Scale and Character

An assessment of the scale and character of a proposed development goes much wider than an assessment of what exists on the actual site itself. Historically Lees was a farming community with significant gaps along the main road frontage. Over many years these significant gaps were developed with a variety of house types – substantial detached dwellings and bungalows. In the past 15 years, various housing developments have been permitted at the application stage or at appeal. (This has resulted in the situation that the Parish Council complains about of significant new housing development in the village).

In terms of assessing the impact of a development on scale and character there is no specific historic characteristic that would allow a particular house type to be said to be out of scale with its surroundings to a point where that could be substantiated at appeal. The White House is the nearest traditional dwelling but that has been significantly extended and altered to a point where its original scale and character has been lost albeit that the appearance of the dwelling remains traditional. It is set well back from the road. Other dwellings in the vicinity date from the 1960's and 1970's. The ones on the opposite side of the road are set well back from the road. 'Antlers' lies to the south of the development site and dates from the 1970's. It is set further back from the road than the proposed dwellings.

The conclusion on the issue of scale and character is that the proposed dwellings albeit of a modern appearance, would be of a scale and character in keeping with the remainder of the settlement and its surroundings.

Impact on the occupiers of the neighbouring dwellings

In terms of 'Antlers' the impact of the development of Plot 1 is that the bedroom window in the existing house would face onto the blank gable of the proposed dwelling. This relationship is acceptable under the Housing Layout and Design SPG and there would be no significant loss of light as the bedroom window faces almost directly north and receives no direct sunlight. The dwelling on Plot 1 has been sited such that it would not overbear on the front windows of 'Antlers'.

The situation of the impact on the occupiers of The White House is more complicated. Clearly in its original form the windows in the cottage that overlook the site were the main habitable room windows of the one up and one down dwellings. Plans from previous planning applications, indicate that the entrance doors to the dwellings were in the south flank of properties. The windows that remain in the property receive considerable light from these south-facing windows.

However, the extensions and alterations that have taken place have significantly changed the aspect of the dwelling such that it has its main entrance facing the road and windows in the east and west facing flanks of the dwelling.

The originally submitted scheme was totally unacceptable in that the flank walls would have dominated the existing dwelling. The amended scheme has significantly reduced the mass of the dwelling adjacent to the boundary. The objectors are correct in stating that the remaining 2-storey element is within the minimum distance from their windows. The distance is shown as 12 metres and this is the minimum distance required in the Supplementary Planning Guidance between the blank gable of a 2-storey dwelling and the habitable room windows in an adjacent dwelling.

The judgement here is whether the changes to The White House are such that the weight attached to the windows in the south facing walls is reduced given that the main aspects of the dwelling now face east/west. The reduction of the flank wall to a height of 3.75 metres close to the boundary represents a compromise that reflects the original importance of the windows in the south flank of The White House but it would be difficult to sustain an argument that the side windows should prejudice a development should it be acceptable in planning policy terms as a replacement dwelling, when alternative windows exist in the dwelling that provide light to the affected rooms. The same arguments are considered to apply to the two-storey element of the proposed dwelling on Plot 2.

If permitted the proposed dwellings would be located sufficiently far from the dwellings on the opposite side of the lane such that the Council's adopted standards for space about dwellings would be met.

Access Proposals

Given the comments of the County Highway Authority that the access alterations could take place in any event without planning permission, the principle of the access is acceptable. Conditions could be attached to require that turning space be provided within the curtilage of each of the dwellings such that vehicles could enter and leave the site in a forward gear. This and the other requirements of the County Highway Authority are recommended below as conditions.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawings received under cover of your letter dated 26 January 2006.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. No work shall take place on the site until details of a scheme for the disposal of surface water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
Reason: In the interests of flood protection.
5. Prior to any other works commencing, the new accesses shall be formed to the public highway. Each access shall have a minimum width of 3.2 metres, be constructed as a splayed vehicular crossover and be surfaced in a solid bound material
Reason: In the interests of highway safety.
6. Prior to the first use of the development hereby permitted, the land in advance of the sight lines measuring 2m x maximum achievable on the site frontage 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.
7. Prior to the occupation of the first dwelling a footway fronting the site shall be constructed to adoption standard extending from the vehicular crossing for plot 2 across the entire site frontage in accordance with a scheme that shall have received the prior written approval of the Local Planning Authority.
Reason: In the interests of highway safety.
8. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of each

dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

9. Provision shall be made within the site curtilage for vehicle turning facilities allowing passage to and from the highway in forward gear.

Reason: In the interests of highway safety.

10. 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.

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

11. 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.

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

12. 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.

13. 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.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, there shall be no external alterations, including the insertion of new windows, to the buildings other than as approved under this permission.

Reason: In the interests of maintaining privacy between dwellings

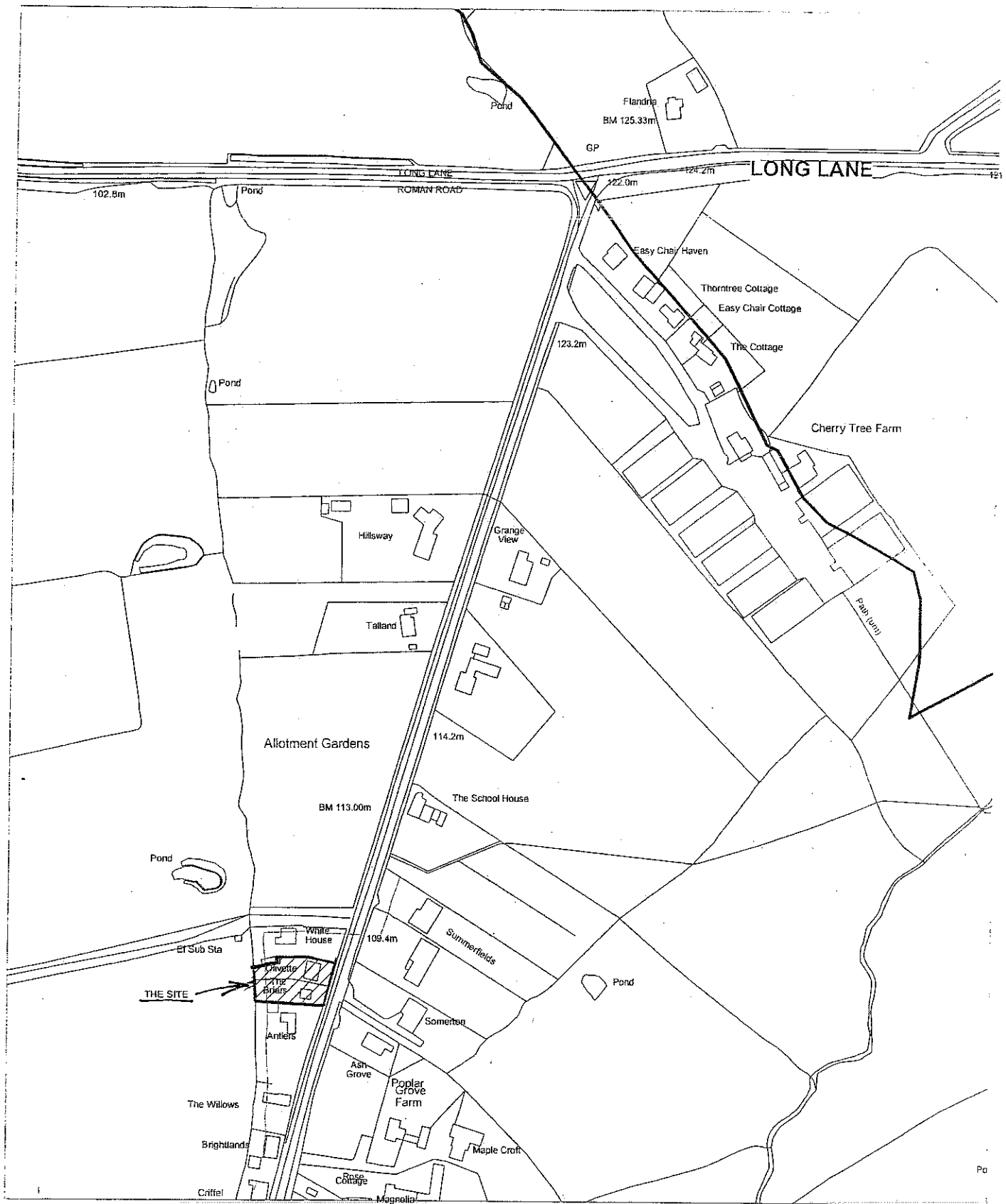
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, none of the dwellings hereby permitted shall be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.


Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

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 footway fronting the site should be constructed to adoption standards and details should be submitted to the County Highways Authority prior to works commencing to construct the footway.

Further to Condition 8 above the provision of turning facilities for the dwellings may necessitate the widening of drives sufficient to allow vehicles to turn or the provision of a joint access.



 South Derbyshire District Council Civic Offices Civic Way Swadlincote DE11 0AH		Date Plotted 24/3/2006	NORTH ↑
	9/2005/1261/F Olivette & The Briars Dalbury Lees Ashbourne <small>Crown Copyright. All rights reserved. South Derbyshire District Council OS Licence No. LA 100019461. 2005</small>	Plot centred at 426517 337834	Scale 1:2500

06/04/2006

Item 1.4**Reg. No.** 9/2005/1228/F**Applicant:**

John & Elizabeth Goodall
The Lilacs
Botany Bay
Swadlincote
Derbyshire
DE12 8DY

Agent:

Mathew Hill
David Lewis Associates
Delf View House
Eyam
Derbyshire
S32 5QH

Proposal: The erection of a dwelling at Sealwood Cottage Farm
Seal Wood Road Linton Swadlincote

Ward: Linton

Valid Date: 21/10/2005

Introduction

Despite its small size, Sealwood Cottage is one of the most novel and unusual listed buildings in the District. Built c1773 by the Gresleys of Netherseal as a lodge or folly, originally in a woodland setting, its construction and fittings are of very high quality. It is built of re-used timber framing, originally with a thatched roof and massive chimney, and the interior sports a wine cellar, gothic doorways and a first floor prospect room with an original and unique 18th century pull-out bed. The building had previously escaped notice, both of the Government's listed building advisers and the District Council, because of its remote and unpromising location on a single track drive off an unmade road. Following its "discovery", it was listed Grade II in 2004.

Site Description

The house is unoccupied and lies in extensive grounds that, save for perimeter hedges and trees, are down to grass. It is largely surrounded by agricultural land within the countryside some 700 metres from the main street through the village of Linton.

The building is part timber framed, part brick and now has a tiled roof. It is in extremely poor repair.

Proposal

Three applications (two planning and one for listed building consent) have been submitted in respect of this site.

This report deals with all aspects of the three applications and the two subsequent reports contain recommendations and conditions only.

Sealwood Cottage is to be divided into two one-bedroom self contained holiday homes. Applications 9/2005/1229/F and 9/2005/1230/L are submitted for planning permission and listed building consent for the works involved with the conversion. Application 9/2005/1228/F is for the erection of a four bedroom house and a triple garage in the grounds of the cottage.

The applicant is aware that should planning permission be granted for the erection of a new dwelling in the countryside against policies for its protection as a special concession in view of the circumstances set out in the planning assessment, it would be subject to:

- The revocation of an earlier planning permission for extensions to the cottage
- A Section 106 Agreement requiring:
 - 1) The restoration of the Listed Building before the new house is commenced
 - 2) An undertaking to allow limited public access to the Listed Building
 - 3) Strict limitations on usage of Sealwood Cottage(s) as holiday lets

Applicant's supporting information

A considerable amount of supporting information has been submitted with the application. This primarily deals with the historical context for Sealwood Cottage and also includes a structural report. The structural report is mainly concerned with the repairs necessary to the 18th century part of the building as save for relatively minor problems at the interface between the two components and the poor state of windows, the 19th century part of the building is in a fair to reasonable condition.

Planning History and Background

In 2004 substantial extensions were permitted to the cottage under application reference 9/2004/0207. The proposal would have resulted in the existing three bedroom cottage becoming a five bedroom dwelling and also made provision for a detached triple garage. Prior to implementation of this planning permission it came to light that there was more to this small isolated cottage than was first apparent. The building had originally been constructed as a hunting lodge or ornamental banqueting house by the owners of Netherseal Hall in around 1773. This timber framed part of the building comprises a large kitchen on the ground floor with steps leading down to a wine cellar that has brick constructed arched wine storage compartments. A winding staircase leads from the kitchen to a first floor banqueting room. The banqueting room has a large floor to ceiling window that would have once provided visitors to the building with a vista through woodlands towards Overseal. It has a pyramidal ceiling with decorative mouldings. This room is wood panelled below a dado rail part of which conceals a truckle bed. This unusual feature remains, although it is in need of restoration. The small building contains, for its size, a large number of other unusual features. The doorways are in a pointed gothic arched style, a curved storage cupboard with a curved door is located near the top of the spiral staircase, window shutters are stored between the cavity walls and run on wires for opening and closing. All of these features are in place and in need of repair. A large circular chimney has, for the most part, been removed.

Around 150 years ago a two storey extension was added to the lodge providing a kitchen, pantry and living room and a second staircase leading to two bedrooms above. It was then occupied as a single dwelling.

When the special history of the building with its unusual features came to light spot listing was requested and it was quickly confirmed as a Grade II Listed Building. The effect of this was that the planning permission could not be implemented without Listed Building Consent and a Listed Building Consent application for the same scheme would have damaged the special character of Sealwood Cottage. The Council's Conservation Team then worked closely with the owners to put forward a sympathetic scheme as now proposed.

Responses to Consultations

The Council's Conservation Officers support the proposals on the basis that the scheme would safeguard the future of the building subject to the revocation of the earlier planning permission and to imposing the usual conditions to require a high standard of workmanship and finish and subject to the owner entering into a Section 106 Agreement in respect of the restoration of the cottage, restriction of it to holiday accommodation and to provide limited public access.

The County Planning Department considers that whilst the proposed development would conflict with the requirements of General Development Strategy Policy 4 and Housing Policy 6 of the Derby and Derbyshire Joint Structure Plan, the exceptional circumstances surrounding this planning application and the potential damage to a valuable listed building if the planning permission to extend the structure is not revoked are sufficient to override those requirements. The County Council considers it essential that the earlier planning permission for the extensions to the listed building is revoked prior to commencement of construction of the proposed new dwelling through planning condition and legally binding agreement.

The County Highways Authority has no objections.

The Pollution Control Officer recommends a site investigation as there is a possibility that contaminants may be present.

The Environment Agency raises no objection subject to conditions.

Responses to Publicity

One letter has been received objecting to the proposal generally on the grounds that:

- It is unwarranted development in the countryside
- Highway safety
- Precedent

Development Plan Policies

The relevant policies are:

RSS8: N/A

Joint Structure Plan: General Development Strategy Policy 4, Environment Policy 10 and Housing Policy 6

Local Plan: Housing Policy 8 and Environment Policy 13

National Policies/Guidance

The adopted Local Plan does not reflect up to date government policy hence regard has been given to Planning Policy Guidance Note 7 – Sustainable Development in Rural Areas and Planning Policy Guidance Note 15 -Planning and the Historic Environment (PPG15).

Planning Considerations

The main issues central to the determination of this application are the protection of the countryside from unwarranted development and the protection of historic buildings

Planning Assessment

The Government's aims are to protect the countryside from unwarranted development, to direct new housing to locations that are served by a range of facilities in order to reduce dependence on the private car and to make use of brownfield sites before greenfield sites. The application site lies within an area where policies for the protection of the countryside apply and none of the usual exceptions apply wholly to this case.

The rationale for the erection of the new dwelling contrary to policies for the protection of the countryside is rooted in the desire to protect the listed building, Sealwood Cottage, from extensions that would be harmful to its character that depends partly on it being small and free-standing. Its roof form is particularly distinctive and the extension would have spoiled it.

The position and design for the new dwelling are sympathetic to the cottage having received extensive advice from the Council's Conservation Team. Its size and the provision of the garage reflect the accommodation that the owner would have expected to enjoy had planning permission granted under reference 9/2004/0207 been implemented. In terms of its position alongside the Listed Building, the curtilage is quite large, and the impact of the new house can be softened by landscaping.

Insofar as the use of Sealwood Cottage for holiday lets is concerned this part of the proposal finds support in paragraph 34 of PPS7 which urges Local Authorities to explore leisure and tourism in rural areas as such activities would support the local rural economy. On the face of it holiday accommodation would appear to be an eminently suitable use since temporary occupation would be unlikely to bring about subsequent pressure for extensions/alterations, satellite dishes and other domestic paraphernalia associated with permanent occupation. Furthermore, in the context of support for the local economy it is considered that holiday makers would be likely to support some local facilities and would also be likely to support tourist attractions in the area which in turn provide employment for local people.

Environment Policy 10 in the Structure Plan says that listed buildings should be protected from inappropriate alteration and unsympathetic development that would harm their character or setting. The revised works for the conversion of the building are sympathetic to the existing structure having been drawn up with assistance from

the Council's Conservation Officers. PPG15 provides additional weight for the conversion stating that generally the best way of securing the upkeep of historic buildings is to keep them in active use and often the best use is the one for which they

were designed. Nevertheless it recognises that new uses may often be the key to a building's preservation and urges that planning matters should be exercised sympathetically where this would enable a historic building to be given a new lease of life.

As set out earlier in this report the cottage is in urgent need of repair. In the supporting documentation that accompanies this application emphasis is given to the poor condition of the cottage and the fact that the erection of a dwelling alongside it would provide funding for its restoration. However, no case is made for essential enabling development which would ensure that the profits from this new dwelling are used in the restoration of the farmhouse. The proposal must therefore be considered in the context of whether a Section 106 Agreement will be sufficiently robust to bring about the repair of the building and thereafter provide for its future.

Conclusion

The desire to renovate and maintain the Listed Building is a material consideration that carries sufficient weight to over-ride the general presumption against the erection of a new dwelling in the countryside. Furthermore, the conversion of the Listed Building into holiday homes is compliant with policies for supporting the local rural economy and will provide some public access to a Listed Building that would otherwise be appreciated only by its owners. In addition it is intended that this limited access may be enhanced by allowing the building to be more widely open on Heritage Open Days albeit that this would have to be by appointment as the building is too small to cope with large numbers at any one time.

Sealwood Cottage is an exceptional building, not a run-of-the-mill Grade II Listed Building, and it is appropriate to take an exceptional approach. This exceptional approach justifies the position taken in respect of requiring an exemplary standard of repair to the existing building, to higher and more exacting standards than would normally be required in a listed building application.

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

Recommendation

GRANT permission subject to a Section 106 Agreement to secure the revocation (as uncontested by the applicant) of planning permission 9/2004/0207 and the restoration and conversion of Sealwood Cottage in accordance with permissions 9/2005/1229/F & 9/2005/1230/L and the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 1766 11B.

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

3. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

4. Large scale drawings to a minimum Scale of 1:10 of eaves, verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details, shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

5. All external joinery, including the garage doors, shall be of painted timber in a colour and to a specification which shall have previously been agreed in writing by the Local Planning Authority. Windows shall:

- be set back from the face of the wall by a minimum of 20 mm,
- have segmental brick arches (unless they are located directly underneath the eaves) and unless otherwise agreed by the Local Planning Authority,
- be traditionally constructed so that opening casements are flush with the frame (modern EJMA detailing is not acceptable),
- have a traditional brick/stone/tile cill. Integral timber cills are not acceptable.

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

6. 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. The development shall be completed using the approved materials.

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

7. B9 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.

8. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

10. Traditional copings to walls. All boundary walls shall have a traditional style of shaped clay or stone coping, the details of which, including a sample, shall have been previously agreed in writing by the Local Planning Authority.

Reason: To ensure an appropriate standard of detailing.

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.

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

12. No part of the development shall be carried out until precise details including paving patterns, specifications and samples of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

Reason: To safeguard the setting of the Listed Building.

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

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

14. Pointing of the proposed buildings shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joints shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repainting of Brick and Stonework".

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

15. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number,

finish and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

16. No development shall take place until a site investigation to determine whether the land is contaminated and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:
- A. A desktop study of the area of the proposed development.
 - B. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
 - C. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
 - D. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

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

17. Notwithstanding the originally submitted plans no work shall take place on the site until details of a scheme for the disposal of foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of pollution control because the originally submitted details are 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.

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

- a) Details of an overview of the initial walkover survey to including the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- b) Detailed on site sampling to identify any contamination.

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

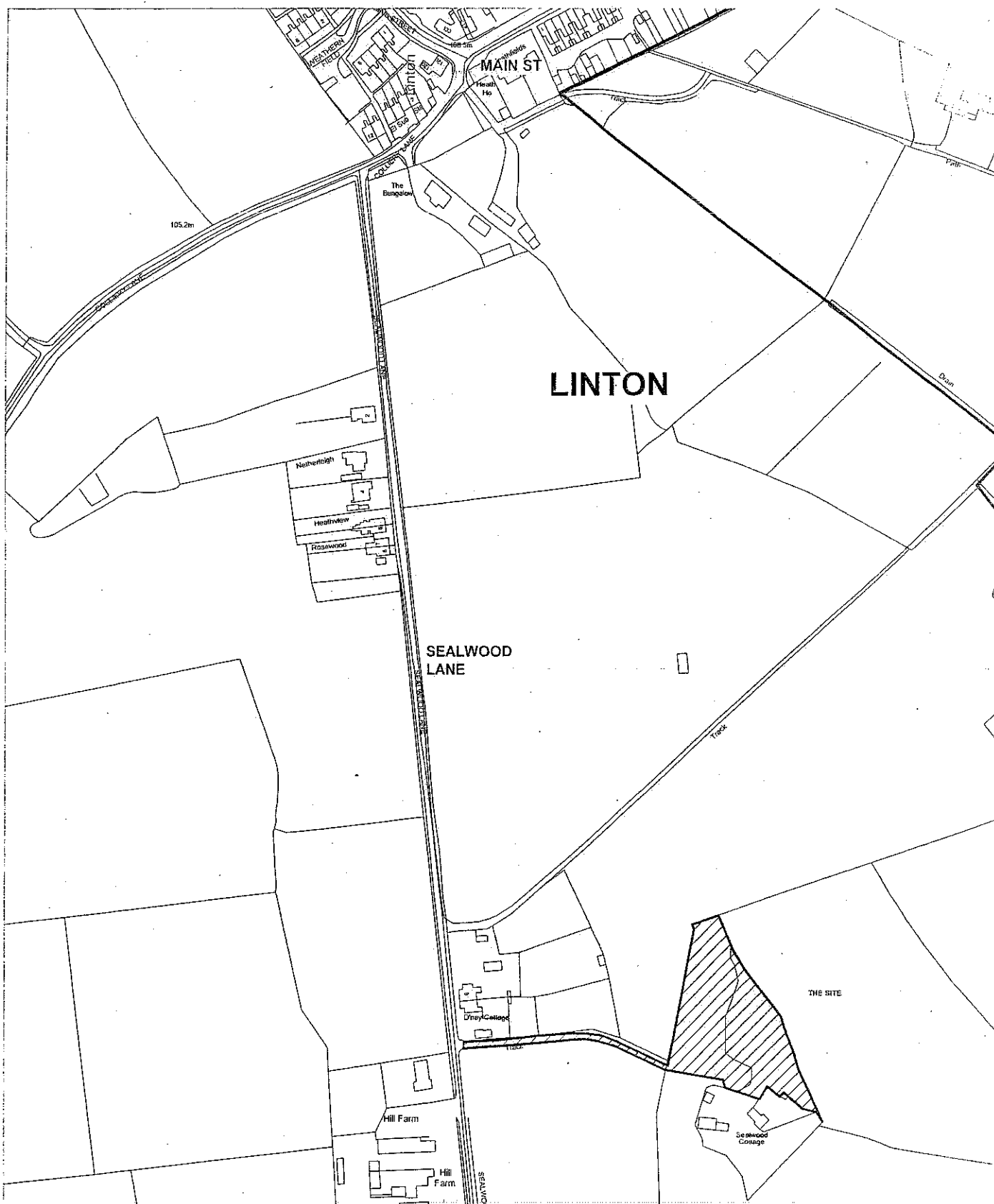
Further guidance can be obtained from the following:

- I. Model Procedures for the Management of Land Contamination CLR 11
- II. CLR Guidance notes on Soil Guideline Values, DEFRA and EA
- III. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
- IV. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- V. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- VI. Guidance for the Safe Development of Housing on Land Affected by Contamination' Environment Agency. ISBN 0113101775.

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

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

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



South Derbyshire
District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

9/2005/1228/F Sealwood Cottage Farm
Seal Wood Rd
Linton

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Date Plotted 24/3/2006

NORTH



Plot centred at 428038 315959 Scale 1:3000