

04/10/2005

Item 2.1**Reg. No.** 9/2005/0891/F**Applicant:**

Mr D Williamson
5 Regent Street
Church Gresley
Swadlincote
Derbyshire

Agent:

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

Proposal: **Erection of 4 dwellings and associated parking, new garage for 2 Oversetts Road and formation of an access road on Land At 2 18 Oversetts Road Newhall Swadlincote**

Ward: Newhall

Valid Date: 28/07/2005

Site Description

This site is on the east side of Oversetts Road some 10m south of its junction with Main Street. Two derelict semi-detached dwellings fronting the road occupy the south side of the site and the remainder of the site appears to be former garden land used by the owner to store used tin cans for recycling.

Proposal

It is proposed to demolish the existing buildings and erect four, three bedroom dwellings in semi-detached pairs either side of a proposed central access. Parking is proposed at the rear of the site.

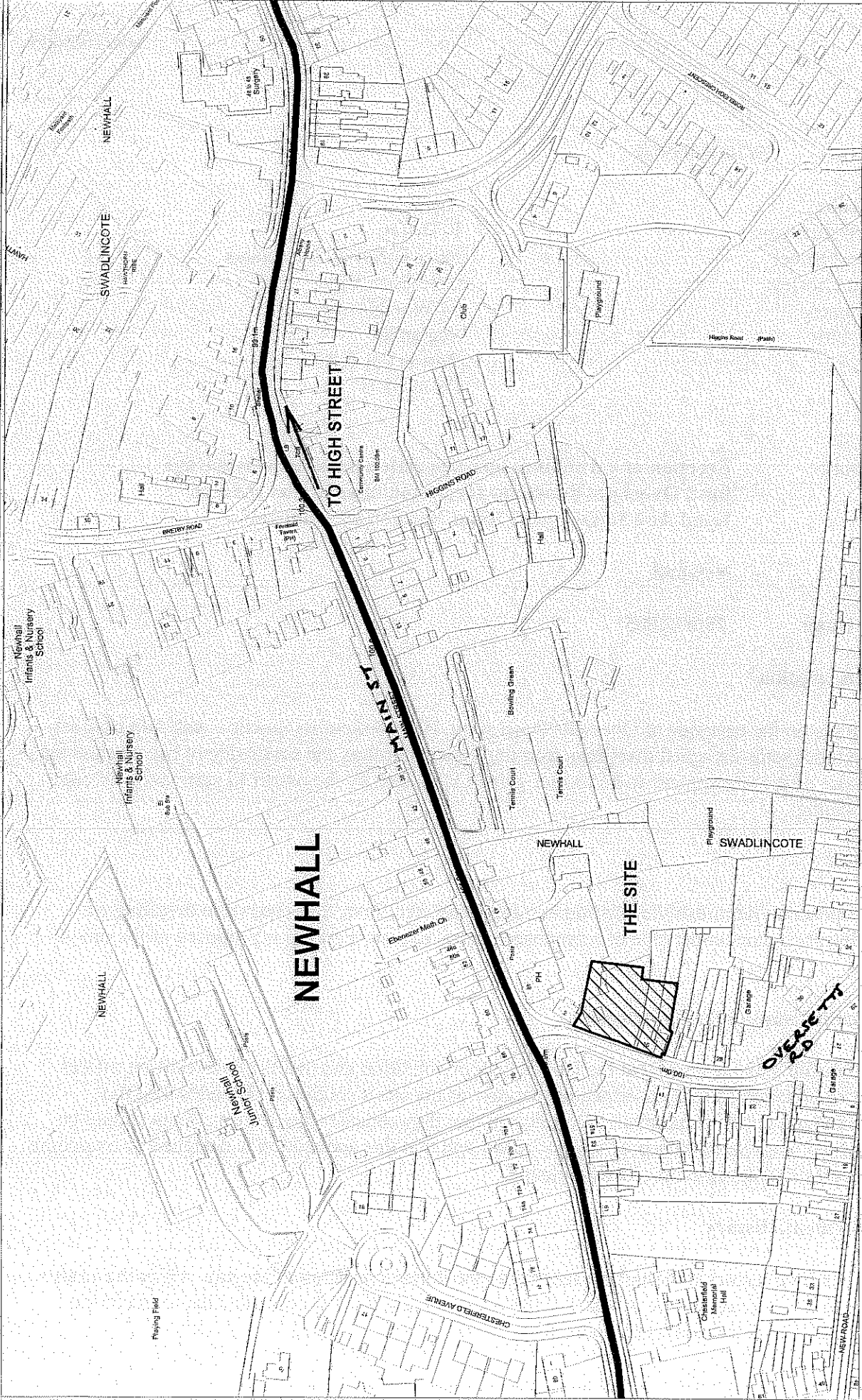
Applicants' supporting information

The applicant's agent states that the land is in poor condition and that the enforcement officer has visited the site on various occasions because of the site's condition. He adds that the environmental health department has indicated that they consider the two dwellings should be demolished because of their poor state of repair and that this application is designed to overcome these issues and develop the site for housing.

Enforcement History

There is a long history of complaint relating to the untidy condition of the site. Over the years the owner has carried out the occasional tidying operation, sometimes sufficient to avoid the need for formal action and sometimes not.

9/2005/0891/F Land at 2-18 Oversetts Road
Newhall



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Scale 1:2000

Date Plotted 22/9/2005



Plot centred at 428536 325343

9/2005/0891/F Land at 2-10 Oversettts Road
Newhall

Recently, the appearance of the land has substantially deteriorated following a fire at Nos. 16-18 Oversetts Road and further contact with the owner has failed to produce an improvement thus rendering formal action under S215 justifiable and indeed, urgently required.

The private sector housing officer is currently preparing a case to have the existing dwellings demolished on Unfitness for Human Habitation grounds under the Housing Act 1985.

Responses to Consultations

The Highway Authority states that based on speed readings previously taken at the above site, visibility sightlines of 2.4m x 45m would be required at an access onto Oversetts Road. This cannot be achieved within the land available. It therefore recommends refusal on grounds that approval would result in the introduction of vehicular movements at a location where visibility is substandard contrary to the best interests of highway safety. It adds, however, that it understands that redevelopment is desirable from a planning aspect and recommends visibility and parking conditions should planning permission be granted.

Development Plan Policies

The relevant policies are:

RSS8: Policy 2 and 4

Joint Structure Plan: Transport Policy 4, Housing Policy 3

Local Plan: Transport Policy 6, Housing Policy 4

Planning Considerations

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

- Highway safety
- Redevelopment of untidy and unsightly land
- The consequences if planning permission is not granted

Planning Assessment

The site lies within the urban area as identified in the adopted local plan and occupies previously developed land. As such its redevelopment for residential use is acceptable in principle.

According to the Highway Authority the visibility splays would be 33m to the Main Street junction and 27m down Oversetts Road thereby falling short by 12m and 18m respectively. Balanced against this, however, is an opportunity to develop this very visible area of unkempt land in the interests of enhancing local amenity and bringing to an end the longstanding environmental problems the Council has had with it.

Members will need to determine the weight to be given to these issues and make a determination that best serves the public interest in their opinion. The recommendation below seeks to maintain a consistent approach to highway safety; however, members may choose to ascribe greater weight to enhancing the appearance of the street scene in the interests of public amenity albeit in the face of a shortfall in highway safety standards. It should be noted that there appears to be little prospect of a longer term solution for the site and none has been offered in recent years.

Should members be minded to grant permission, improvements would be necessary to the design of the houses in the interests of maintaining local distinctiveness but these could be secured by condition.

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

REFUSE permission for the following reason:

The development would result in the introduction of vehicular movements at a location where visibility is substandard contrary to the best interests of highway safety and contrary to Transport Policy 4 of the Structure Plan and Transport Policy 6 of the Local Plan.

04/10/2005

Item 2.2**Reg. No.** 9/2005/0892/U**Applicant:**

Mr Mrs Tunnicliffe
 122 Coton Park
 Linton
 Swadlincote
 Derbyshire

Agent:

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

Proposal: The change of use of building from general recreational use to part 1 bedroomed dwelling, part B1 use (personal to occupier) and part recreational/domestic purposes at Recreational Livery Yard At O S Field 9830 Coton Park Linton Swadlincote

Ward: Linton**Valid Date:** 28/07/2005**Site Description**

The application site comprises two paddocks enclosed by mature planting. The stable block comprises six rooms formerly used as stables and tack rooms together with a workshop and garage. It is sited on one of the paddocks and close to the track known as Occupation Lane that forms access from Coton Park. The whole of the site is located outside any village confine as defined in the Adopted Local Plan.

Proposal

The building is essentially in three sections. The most southerly section is part two storey comprising a workshop and garage and it is proposed that this use should continue. The northerly part of the building is in two parts a rear section and a forward wing comprising six rooms. It is proposed to convert the rear section of four rooms into a one bedroom dwelling and the remaining two rooms in the forward wing would remain as kennels.

Applicants' supporting information

In addition to the history that is set out below, the applicants, via their agent, have submitted lengthy supporting information that is summarised as follows:

- The building would be used by the applicants as their home and for their hobby of dog training and the workshop would be used for B1 purposes by them

9/2005/0892/U O S Field 9830

Coton Park

Linton

THE SITE



COTON PARK

83.5m

TCB

LB

BM 67.08m

85.6m

Playground

Recreation Ground

83.2m

82.6m

COTON PARK
87.6m

Grange Farm

Gas Gov

Grange Cottage

Linton

Manor Cottage

BM 84.78m

HILLSIDE ROAD

86.0m

TO CASTLE
GRESLEY

Christ Church

BM 80.54m

80.8m

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Scale 1:2600

Plot centred at 428536 325343

Date Plotted 22/9/2005

9/2005/0892/U O S Field 9830

Coton Park
Linton



- Use as a one-bedroom dwelling would not result in any internal or external alterations to the building save for the provision of a ramp to the front entrance for disabled access
- For security reasons the building is already occupied every day and for one night a week
- 4 – 6 vehicle movements are generated each day
- The conversion would provide new market and affordable housing and would release a small low cost dwelling close-by and meets policy

The statement goes on to say that this application differs from the 2000 application (see below) as follows:

- The proposal is for a partial conversion allowing for part B1 use
- It is designed to suit a disabled person
- It is designed to provide new market housing in the rural areas
- It takes account of the most recent advice in PPS7
- It takes account of the Inspector's comments made in the most recent appeal

Planning History

There is a substantial amount of planning history relating to this site.

The stables were constructed for the personal use of the applicant following planning permission being granted under reference 9/693/235/F. They are built to a high specification being cavity wall and having all the usual attributes associated with a dwelling. Mains water and electricity are connected; foul drainage is to a septic tank and the building is connected to a telephone line. There is a fuel tank within the building and adequate facilities exist for parking and turning for both cars and heavy goods vehicles.

In 1994 permission was granted for the erection of a boundary wall (9/294/927/F) and in 1996 a temporary permission was granted for the siting of a caravan for a period of one year (9/696/194/F). An application for renewal in 1997 was refused (9/697/257/F).

As a result of an investigation in 1999, the Council issued an Enforcement Notice against the residential occupation of the stables under reference E98/283 and the subsequent appeal was allowed on the basis that the applicants lived close-by and the use of the building was for recreational/leisure purposes (but not for full residential occupation). A further planning application was then submitted to convert the premises into a dwelling. This was considered under reference 9/2000/909/U and was refused. The refusal was the subject of an appeal that was dismissed. In dismissing the appeal the inspector had regard to the fact that there had been no assessment of the building for any alternative use. He also considered that the use would result in light pollution and increased activity/domestication of the area and that the conversion of an 8 year old building would set a poor precedent.

Responses to Publicity

None received.

Responses to Consultations

The County Highway Authority has no objections subject to the use as described.

Linton Parish Council strongly objects for the following reasons:

- Cannot recall an application for the internal works to provide the existing bedroom, kitchen and shower room
- The proposal is planning by stealth
- Would set a precedent

Local Development Plan Policies

The relevant policies are:

RSS8:	Policies 2 and 3
Joint Structure Plan:	General Strategy Policies 1 and 4 Housing Policy 6 Transport Policy 4
Local Plan:	Housing Policy 7 Transport Policy 6

National Policies/Guidance

In view of the fact that the emerging Local Plan has now been withdrawn and the adopted Local Plan does not reflect up to date government policy, regard has been given to Planning Policy Statement 7 – Sustainable Development in Rural Areas (PPS7)

Planning Considerations

The main issue central to the determination of this application is whether the proposed use would be acceptable within prevailing policy.

Planning Assessment

Policy

The main issue in consideration of this application is whether the use of the site for a mixed use of residential, B1 and recreation is in accordance with policy for the protection of the countryside and the impact of the proposed use on the rural character and appearance of the area.

The Government's aim is 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. Notwithstanding this overall objective there is support for the re-use of appropriately located and suitably constructed existing buildings in the countryside where this would meet sustainable development objectives. This government policy is reflected in the Joint Structure Plan and the Council's Local Plan. These documents stress that re-use for purposes that support the rural economy will usually be preferable. Whilst PPS7 goes on to state that residential conversions may be more appropriate in some locations and for some types of building, and policies should permit re-use of buildings in the countryside for economic, residential and any other purposes, including mixed uses, all of this is assessed against the particular circumstances of the application.

The building the subject of this application is approximately a kilometre from the village of Linton where there is a range of facilities in this respect it fails the test of reducing dependence on the private motor car.

In terms of its construction, it is suitable for conversion without major alteration. Indeed the scheme of conversion that has been submitted makes very little outward change to the building. As to the character of the locality, whilst the conversion works in themselves would not cause detriment to the locality, all the usual domestic paraphernalia found within the curtilage of dwellings would be likely to be detrimental to the rural character of the area as the inspector at the time of the last appeal identified.

Insofar as consideration of alternative uses that the building could be put to as required by policies for conversion are concerned, the applicant has considered commercial, recreational, holiday lets and residential. He concludes that the building is already used for recreational purposes and expansion of the existing use would result in increased volumes of traffic and security/trespass problems are likely to cause severe management problems. Conversion solely to a holiday let would result in the premises being empty for part of the year and there would be similar problems of security whilst a partial conversion would result in additional traffic and incompatibility with dogs. Conversion to one large dwelling has already been discounted by an Inspector at appeal and two small dwellings would result in additional traffic. Its location and access make it unsuitable for B2 and B8 and similarly other uses that would generate high levels of traffic are inappropriate. B1 use for the whole of the site would be likely to generate employment for between 6–10 persons and therefore the applicant submits that the building is only suitable for conversion to provide a home/work unit for B1 purposes for the personal occupation of the applicants. Notwithstanding this conclusion the applicant is willing to further investigate holiday lets if it is considered that such a use would be preferable to home-working.

Insofar as officer assessment of the issues of re-use are concerned, the applicant's assessment of alternative uses fall short of providing evidence to support the claims. The livery use has not been marketed and therefore it has not been demonstrated that such a use cannot continued or resumed. The conversion to a holiday let has not been fully evaluated. As to the proposed business use, whilst the applicant has made a case for a mixed use that includes personal use of the workshop for B1 purposes, there is no submitted information as to what business this might be. On the contrary, the supporting statement makes it clear that one of the applicants is both disabled and retired and that activities on the land are largely on a hobby basis for the second applicant for training and showing dogs. Furthermore no unilateral undertaking accompanies the application to the effect that the dwelling would only be occupied in conjunction with the workshop. In the absence of such linkage if the proposal is approved and if only that part of the building is occupied as it relates to residential use there would be nothing to compel the applicant to occupy the remainder of the building.

Conclusion

In the decision letter for the last appeal the Inspector considered that refusal was threefold based on:

- No need for the proposal had been demonstrated
- The effects of residential occupation including night-time lighting would be detrimental to the rural character of the area
- Conversion of a 7/8 year old building to residential purposes would undermine policy objectives aimed at protecting the countryside.

It is considered that all of this reasoning remains applicable and furthermore the applicant has not demonstrated that there is no use for which the building could be put that would be more beneficial to the rural community.

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

REFUSE permission for the following reason:

The application site is located in the countryside outside any village confine as defined in the Adopted South Derbyshire Local Plan. National and Local Policies seek to protect the countryside from unwarranted development and to reduce dependence on the private motor car. At the same time provision is made for the re-use of existing buildings to support the rural community. The proposal is unsupported by any evidence of need for a new dwelling in the countryside and alternative uses for the building that would support the rural economy have not been fully explored. Furthermore, approval of the proposal would result in the formation of a new dwelling some 1km from the closest village that would be contrary to policies for sustainable development. Therefore to permit the proposal would be contrary to Local and National Policies set out in RSS8: Policies 2 and 3; Joint Structure Plan: General Strategy Policies 1 and 4, Housing Policy 6; Local Plan: Housing Policy 7.

APPEAL DISMISSED

Appeal by Wilson

Variation of condition 3 of planning permission 9/879/801 to allow for use of land as a caravan and camping site for up to 50 touring caravans incorporating an extension to the site at

Lees Hall Farm Boylestone, Ashbourne (9/2004/0308)

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

The site lies in the countryside wherein Leisure Policy 1 of the Adopted Structure Plan, Recreation and Tourism Policy 10 of the adopted South Derbyshire Local Plan and Policy LRT 8 of the emerging Replacement Local Plan all seek to permit touring caravan sites subject to criteria. Amongst these criteria are a requirement for the development to be not unduly prominent in the countryside and have adequate parking landscaping and access. The extension of the caravan site onto the field has resulted in a prominent intrusion into the countryside with access via roads that are unsuited to accommodate additional levels of traffic. Thus the proposal is contrary to the above policies and retention of the use would be harmful to the character and appearance of the countryside which is to be protected in its own right according to Government advice.

Procedural Matters

The change of the description to 'variation of condition 3 of planning permission 9/879/801 to allow for use of land as a caravan and camping site for up to 50 touring caravans incorporating an extension to the site'. As the red line used in planning permission 9/879/801 only partly covers the appeal site the Inspector concluded that the description on the application form was more accurate.

The development has commencement before the date of the application therefore it was considered under section 73A of the Act.

Main Issues

The two main issues are thought to be the effect of the proposal on highway safety and the effect of the proposal on the character and appearance of the area.

Planning Policy

Planning policies specify that provision should be made for touring caravan and campsites where demand arises subject to environmental acceptability, particularly in terms of landscape and traffic impact.

Little weight was attached to the South Derbyshire Tourism Strategy 2001-2005 as this is not Supplementary Planning Guidance.

Reasons

The site comprises fields lying adjacent to a working farmyard and farmhouse within agricultural land. Part of the site has planning permission for 20 touring caravans and the winter storage of 10. Access to the site is via a farm road leading from Margery Lane which is an unclassified road.

It was made clear to the Inspector at the hearing that the site had been used for storing 50 caravans since 2000 and that there had been no accidents in the vicinity since that time. Most visitors to the site would approach Lees Farm from the A515 as there is only a narrow approach from the East, marketing for the site could encourage this.

Margery Lane from the West is narrow with grass verges but no places to pass and is unlit. Using this lane is likely to damage the grass verges and increase conflict between vehicles, pedestrians and horse riders. This would not be in the interests of Highway safety.

It was put to the Inspector to place a condition on to control the comings and goings of the site, it was felt that this would be impossible to enforce or monitor.

The site is well screened with bushes forming part of the North, South and East boundaries and the farmhouse and farm buildings forming the West.

In winter the foliage will not provide such adequate screening. The views of the site will be from only limited points on the highway when the number of caravans on the site is likely to be smaller. The appellant is willing to provide additional planting which will still screen the site in the absence of leaves. The Inspector concluded that the proposal would not harm the landscape, however this does not outweigh the highway safety concerns.

Conclusion

It was acknowledged that the business contributes to the farm income and that customers participate in local activities and support the proposal. Lees Farm, a Grade II Listed building, would not be affected by the proposal but these matters do not outweigh the conclusions made on highways grounds therefore it was concluded by the Inspector that the appeal should be dismissed.

APPEAL ALLOWED

Appeal by Mr Granger

The erection of a detached dwelling at Land Adjacent To 11 Heron Drive, Woodville, Swadlincote (9/2004/1320)

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

1. The proposal would result in an overdevelopment of the site detrimental to the street scene and overbearing on the occupiers of the adjoining property to the north.

Procedural Matters

The description on the application form differs from the decision notice but it was assumed by the Inspector that it must describe the site more clearly.

Main Issues

The two main issues are the effect of the development on the character and appearance of the area, and the second is its impact on living conditions of future occupiers and neighbours.

Policy

Planning policies state that residential development should be permitted within built up areas if it's sustainable, of a suitable scale and character and provides reasonable living conditions.

Significant weight has been attached to Supplementary Planning Guidance on Housing Design and Layout.

Reasons

The site is within the settlement boundary and is substantially surrounded by development as it lies between 9 and 11 Heron Drive with an estate road to the front. In principle referring to planning policies, housing is considered acceptable. The Inspector, in answer to the Councils statement that housing is not needed in Woodville, refers to Government guidance that encourages such development.

The Inspector feels that the proposal would respect the pattern and arrangement of dwellings close by and would not appear cramped.

It was not thought that the new dwelling in its current position would have any increased adverse effect upon the wildlife site to the rear due to residential properties currently being present. It was felt by the Inspector that the new dwelling would not constitute an unduly prominent intrusion into the landscape due to the mounded nature of the former railway line, the screening from the trees and the developments sympathetic relationship to the existing properties.

The Council were concerned that this development would set a precedent for future development but the Inspector must judge this application on its own merits. Although there are no detached houses of this size currently on the estate the Inspector considered that the proposed dwelling would still respect the scale and pattern of properties in the surrounding area.

It was concluded by the Inspector that the development would not unacceptably harm the character and appearance of the area.

Living Conditions

The garden at the appeal site would be of a suitable size for the occupiers and the garden remaining with 11 Heron Drive would be more comparable to that of other houses in the vicinity. The proposal would not cause loss of light or create overlooking of neighbouring properties. The landing window of 11 Heron drive could be conditioned to be obscure glazed therefore overcoming any overlooking problem which may have arisen.

As the properties would be angled it was not felt by the Inspector that the proposal would create a loss of light or be over dominant to 9 Heron Drive. Some windows shown in the North elevation could be obscure glazed.

It was concluded by the Inspector that the development would not adversely harm the living conditions of future occupiers or neighbouring residents.

Conclusion

The Inspector concluded that the appeal should be allowed.

APPEAL ALLOWED.

Appeal by Mr Clamp

Oultine application for the erection of a bungalow (all matters reserved) at 789 Burton Road Midway, Swadlincote (9/2004/1065)

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

1. The development would generate an increase in vehicle movements at an access substandard in terms of visibility for emerging drivers, contrary to the best interests of highway safety on the principal road.

The proposed dwelling would be located a significant distance from the highway, potentially resulting in visiting vehicles, particularly servicing traffic, being parked at the roadside for long periods of time, contrary to the best interests of highway safety on the principal road.

In view of the above the proposal would be contrary to Transport Policy 4 of the Joint Structure Plan, Transport Policy 6 of the Local Plan and Policy T1 of the emerging Local Plan.

Main Issues.

The Inspector considers the main issues to be the effects of the proposal on the safety of road users.

The Derby and Derbyshire Joint Structure Plan and the Adopted South Derbyshire Local Plans both stated that provisions should be made for safe and convenient access in new developments.

Supplementary Planning Guidance is given substantial weight in this appeal.

The appeal site, No. 789 Burton Road, is a semi-detached property fronting the South side of Burton Road. It was noticed by the Inspector that there are speed cameras either side of the road in the vicinity but that they are not positioned at the site. The Inspector stated that the road continues to carry a substantial amount of traffic.

It is argued by the Council and the Highways Authority that there would be insufficient visibility in a westerly direction for driver of vehicles emerging from the access. It is felt by the Inspector that the short fall from 90m to 70m is not detrimental as the vehicles approaching the access are located on the far side of the road and drivers generally restrict their speed where speed cameras are visible.

It is accepted by the Inspector that the proposal would result in additional turning movements on the main road and that this could increase the potential for traffic hazards in the vicinity. However, it has not been proven that this stretch of Burton Road is

especially dangerous. In the Inspectors view a single dwelling would not significantly add to traffic turning movements, taking into consideration the substantial number of existing dwellings with individual accesses in the area.

Although siting has not been considered at this stage it is inevitable that it will be sited around 50m from the highway boundary, which would exceed the 25m standard. It is agreed by the inspector that this would be sufficient space to accommodate parking and manoeuvring areas. Service and delivery vehicles being parked on the roadside for long periods of time of an occasional and intermittent nature would not create material harm to road users.

In conclusion to the points above the Inspector views that the proposal would not unacceptably harm road safety interests. The Inspector also states that relevant plan policies are not conflicted with by the proposal and the appeal should be allowed.