

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

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).

1. PLANNING APPLICATIONS

This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) and responses to County Matters.

Reference	Item	Place	Ward	Page
9/2008/0943	1.1	Etwall	Etwall	1
9/2008/0983	1.2	Thurvaston	North West	4
9/2008/1202	1.3	Melbourne	Melbourne	8

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 Head of Planning Services' 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 Head of Planning Services, 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.

Item 1.1

Reg. No. 9/2008/0943/NO

Applicant:

Mr JWM Brockley
Madtrax Midlands
2 Milton Terrace
Willington Road
Etwall

Agent:

John Church
Planning Consultancy Limited
Victoria Buildings
117 High Street
Clay Cross
Chesterfield

Proposal: **The retention of a mobile home for use as office/waiting
and changing amenity on land at Heage Lane Etwall
Derby**

Ward: **Etwall**

Valid Date: **22/09/2008**

Reason for committee determination

Councillor Lemmon has request that the application be brought to Committee as local concern has been expressed about a particular issue

Site Description

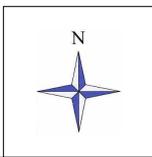
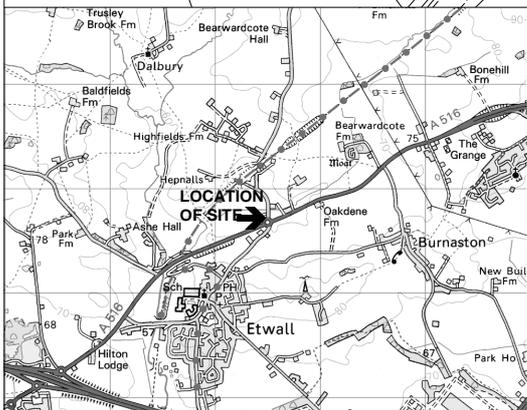
The mobile home is sited within the Madtrax complex and is located adjacent to a substantial hedge that screens it from the wider area on the east boundary of the site. The end elevation is closest to the hedge.

Proposal

To retain the structure on the site as a base for the Madtrax business to facilitate changing and refreshment for clients of the business.

Applicants' supporting information

The site benefits from being screened by the screen fence at the site, it does not extend above the height of the fence so that there is no public view of the structure. Its location next to the car park area means that it is also conveniently located for users. It is hoped that the Council would accept that the facility is necessary to the sustainability of the business. The painting of the structure would be acceptable to the applicant should the Council feel that further mitigation is necessary but it is hoped that the well screened nature of the site would render that unnecessary.



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Planning History

Permission was first granted for the use of the wider site as an off-road purpose-built vehicle track on a temporary basis for 1 year in 2001, which was not implemented. In 2002 a further temporary permission was granted to enable the impact of the use to be assessed as Government advice suggested that the location proposed was one that may be acceptable. A subsequent application to retain the use permanently was approved in 2003 for the permanent retention of the use as no complaints had been received and the use complied with government advice and planning policy described below. The use has continued since that time.

Last year complaints were received that a mobile home had been placed on the site and this is the resultant application. A further complaint have been received that a container has been placed on the site, an application is pending for that use as the fee has not been paid. During the consideration of this application a further complaint was received that the mobile home was being occupied as a dwelling. An incomplete application has been received that lacks an appropriate flood risk assessment and as such cannot be registered. The applicant has been given a deadline for receipt of the necessary information and an update on these unregistered applications will be given at the Committee meeting.

Responses to Consultations

Severn Trent Water has no objection to the use.

Responses to Publicity

No letters have been received.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policy 1, Recreation and Tourism Policy 1.

National Guidance

PPG 17 - Planning for Open Space Sport and Recreation.

Planning Considerations

The main issues central to the determination of this application is whether the use as a changing and refreshment facility associated with the use of the land would be acceptable in planning policy terms.

Planning Assessment

The principle of the use of the land is established and the main issue here is whether the siting of the mobile home for use in association with the principle use of the site is acceptable. Whilst the site lies in flood Zone 3, the use applied for here is not one that requires the submission of a flood risk assessment. The impact of the mobile home in its own right is not significant in the wider countryside. It is considered that its use for the purposes described in the application comply with the requirements of the above

policy given that the proposal would be incidental to the legal permanent use of the site. A condition is recommended limiting the use to that described in the application to prevent separate residential occupation (for the avoidance of doubt) pending consideration of a current application.

In the winter months there is a possibility that the structure would appear more prominent and given the materials of construction, a temporary period of permission would be appropriate to ensure that the colour and maintenance of the mobile home are of an appropriate standard at the end of that temporary period. Conditions are recommended.

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 28 February 2012 on or before which date the structure shall be removed 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: The structure by the nature of its construction are temporary and the Local Planning Authority seeks to retain control over the appearance of the structure in this countryside location and has granted permission for a temporary period to achieve this aim.

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 1995, this permission shall relate to the use of the premises as a reception, changing facility and refreshment as described in your application and for no other purpose.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises and in the interests of the amenity of the area.

3. Within 12 weeks of the date of this permission the mobile home hereby permitted shall be painted in a dark neutral colour BS 4800 12 B29, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to minimise the visual impact of the structure on the wider area particularly in the winter months.

Item 1.2

Reg. No. 9/2008/0983/FH

Applicant:

Mr Jason Lindsay
Cross Close Farm
Cropper Lane
Thurvaston
Ashbourne

Agent:

Mr Anthony Kerby
The Space Studio
(Architects & Designer) Ltd
46-47 Water Street
Birmingham

Proposal: **The erection of extensions and alterations at Cross
Close Farm Cropper Lane Thrurvaston Ashbourne**

Ward: **North West**

Valid Date: **12/12/2008**

Reason for committee determination

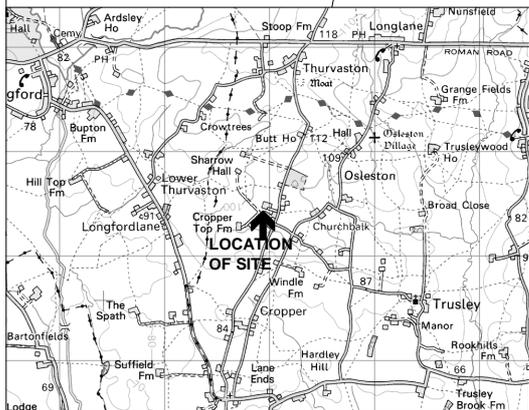
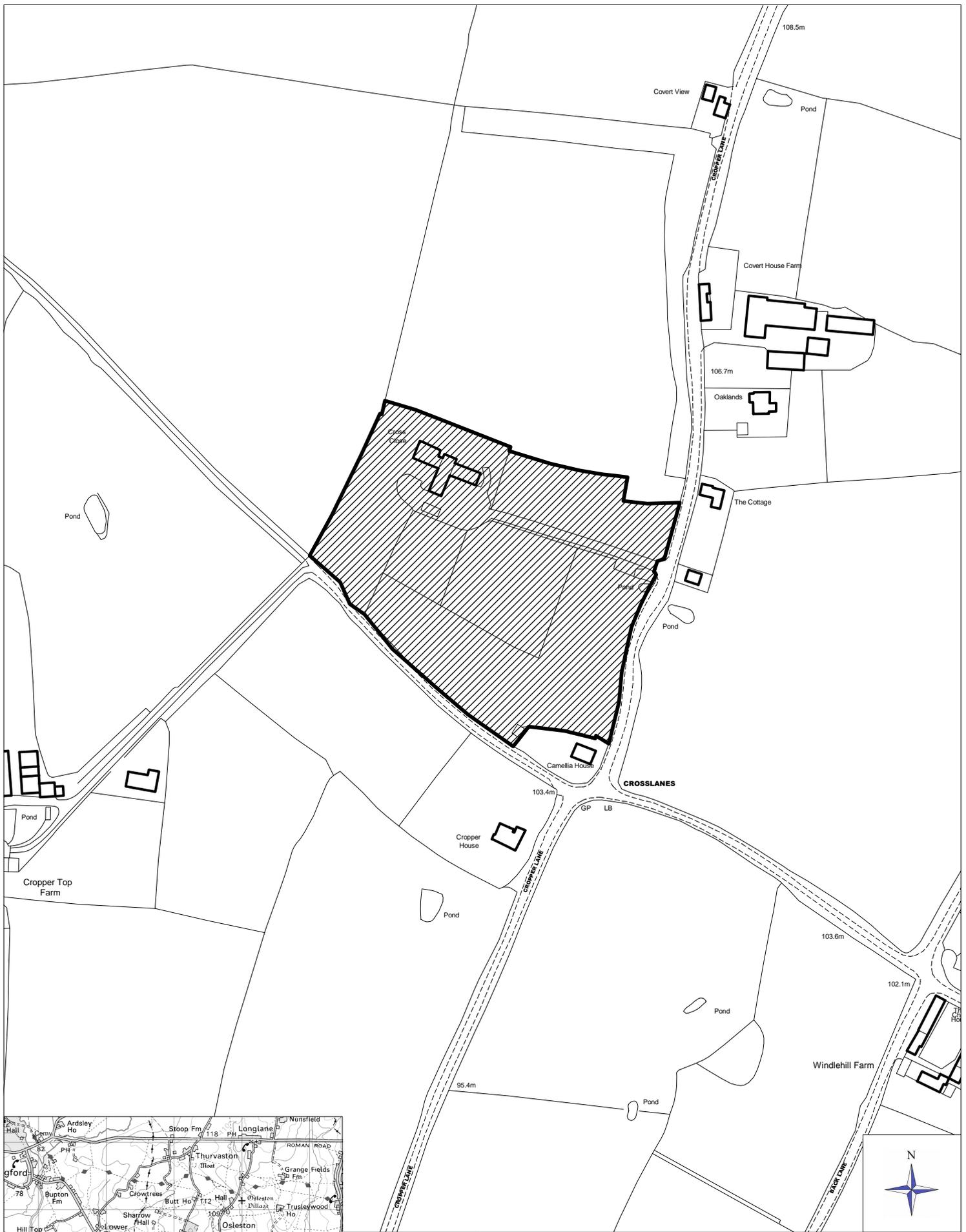
Councillor Bale has requested that this application be brought to Committee as local concern has been expressed about a particular issue.

Site Description

The site is screened from views off Cropper Lane by a substantial belt of trees. Access to the site is via a drive off Cropper Lane. The site is generally level; there is a large turning area at the front of the house. Some 75 metres southwest of the house is a public footpath that drops down a slope from its start off the end of the short length of adopted highway that follows the south boundary of the application site. There is another public footpath some 175 metres north of the farmhouse.

Proposal

The application is for the erection of two storey and single storey extensions to the house including one that would form a link to an existing office and garden store building on the south side of the house. Three of the remaining extensions are relatively small in scale compared to the rest of the dwelling; they comprise a single storey lounge extension, the formation of a balcony to the bedroom to one of the existing bedrooms above the pool plant room and sauna both on the north elevation. Two full height 2-storey side extensions that would be oak framed with glazed panels would provide additional light to a swimming pool area. The final and largest component of the extensions is a single storey side extension to the in the form of an orangery. Adjacent to the master bedroom above the kitchen and part of the orangery, a balcony and sitting area would be formed that would look to the countryside to the west.



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Applicants' supporting information

The materials of construction are specified on the application form as matching those of the existing dwelling.

Planning History

There is no recent planning history for the site. There was a planning permission in the 1980s for the extension of the farmhouse, garaging and the provision of a housekeepers/family flat and the use of part of the extended dwelling as an office for the owner of the house. There was permission in 1980 for the use of part of the farmyard for storage of horse and cattle lorries. It is not clear whether that permission was ever implemented. The occupation of the flat permitted in the 1980s is limited to staff or relatives of the occupiers of the main dwelling.

Responses to Consultations

None

Responses to Publicity

A letter has been received objecting to the extensions on the basis that the farm was much extended in the 1980s and the proposed extensions are out of proportion with the main farmhouse. The site also has parking provision in the form of four garages and ample parking areas. There is no need for further parking.

Another letter states that the proposed extensions would be visible from footpaths. It also draws attention to the potential letting of part of the property and notifies the Council that a building shown on the survey drawing is not present on the ground. The overall conclusion is that the extensions are excessive for a single family dwelling in a rural location and the applicants have now sold the property and do not intend to reside there themselves. There is also concern that the property may be subsequently used for a business.

The letters also makes reference to an application to convert the existing garages into holiday-let accommodation. That application has now been withdrawn.

Development Plan Policies

The relevant policies are:
Local Plan: Housing Policy 13

Reference is also made to the Supplementary Planning Guidance - Extending Your Home.

Planning Considerations

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

- The scale and character of the proposed extensions.
- Impact on the general character of the area.

- Impact on the amenity of the occupiers of neighbouring dwellings.

Planning Assessment

The proposed extensions would change the appearance of the dwelling but they are of a scale that is considered to be in keeping with the property. These extensions are in addition to those permitted in the early 1980s but having said that the dwelling has a unified appearance and the building as a whole is in keeping with the South Derbyshire vernacular. The proposed extensions offer a more modern approach to design whilst respecting the local vernacular in terms of architecture and materials of construction.

The orangery/kitchen is designed in a traditional form with narrow gable width and numerous windows in the side elevations – light would also be provided through a row of roof lights that are screened by a parapet that extends around the whole extension in the traditional manner. The east and west extensions are small in their footprint but are constructed in an oak frame with large glazing panels. The garage would be of a traditional construction and would face onto the drive. The single storey extension to the north would also have a traditional appearance. Both balconies would have glazing around them. Whilst the extensions display a mix of styles it is considered that they would complement the existing building.

The remaining consideration is the impact on the character of the area. This is not a particularly prominent site. It is screened from the south and east by a substantial area of woodland. The main view into the site would be from the adopted access road to the southwest where that becomes Footpath No 10 in the parish of Osleston and Thurvaston, footpath 13 lies to the north of the site at some 175 metres distance. Whilst the extensions would be visible from these public vantage points, they would be seen in the context of what is already a substantial dwelling in a very large plot. It is considered that the extensions would not adversely affect the character and appearance of the countryside.

The site is in an isolated location and there would be no impact on neighbours.

Given that the extensions would comply with Housing Policy 13, and the development would be in keeping with the overall character of the area, it is considered to accord with the advice in Supplementary Planning Guidance.

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. A sample of both the roof tile and the brick and a sample of the proposed render finish shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the extensions are in keeping with its surrounding in the interest of the character and visual amenity of the area.

Item **1.3**

Reg. No. **9/2008/1202/NLO**

Applicant:

Mr James Wigmore
West View
The Common
Melbourne
Derby

Agent:

Mr Jon Phipps
Lathams
St Michael's
Queen Street
Derby

Proposal: **Outline application (with all matters to be reserved) for the demolition of glasshouse, office building, employment building and replacement with a new B1/B8 mixed employment building. Improved access to highway on site car parking a new on site landscaping to be provided at West View The Common Melbourne Derby**

Ward: **Melbourne**

Valid Date: **24/12/2008**

Reason for committee determination

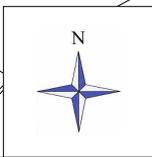
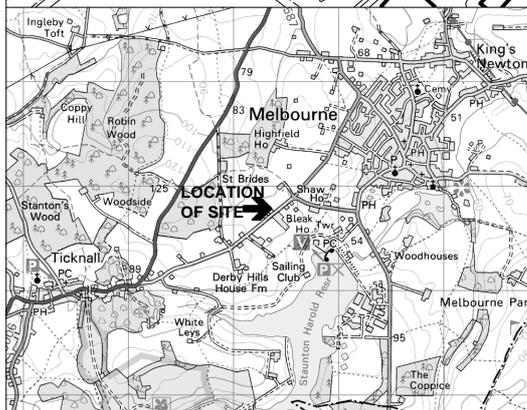
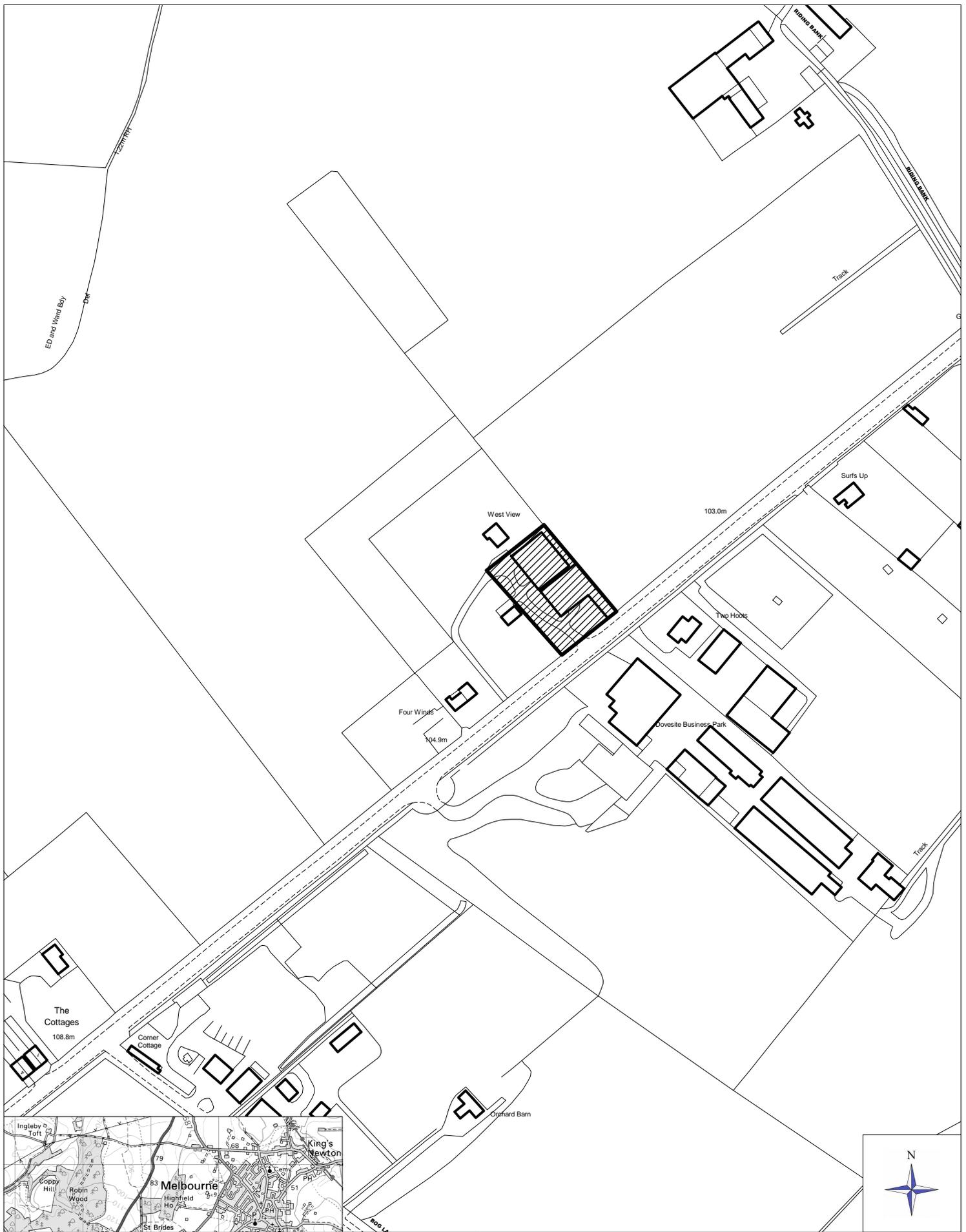
The application is referred to Committee because of the implications for Saved Environment Policy 1 of the South Derbyshire Local Plan.

Site Description

The site is part of a former market garden and industrial premises, which includes a range of utilitarian buildings and glasshouses, in a visually prominent location adjacent to the public highway. There are light industrial premises on the opposite side of the road at Dovesite and Two Hoots. The site lies within the National Forest.

Proposal

The application proposes the demolition of the existing buildings and their replacement with a new purpose built business/storage unit. Whilst the application is in outline the submitted Design and Access Statement indicates a rectangular 2-storey building of contemporary agricultural/employment design quality, using materials that refer to the National Forest context (including timber cladding and brick). The building would be about 44m long and 15m wide, set at right angles to the road and in a similar location to the existing buildings on the site.



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Whilst the overall floorspace would be greater than the existing buildings, by virtue of first floor accommodation, there would be a reduction in the size of the footprint (1015 sq m existing as compared with 660 sq m proposed).

Applicants' supporting information

The Design and Access Statement also includes the following points:

- The existing buildings are utilitarian in appearance with little regard to context.
- A market assessment indicates a demand for office accommodation in the area and in particular in rural and semi-rural locations. 30 to 40 jobs could be created.
- The proposal provides the opportunity to establish valuable employment resource in Melbourne whilst replacing the existing contextually weak buildings with an efficient and flexible building that establishes a new local benchmark for contextual and sustainable design.
- The design would incorporate the principles of 'Towards a New Vernacular' published by the Countryside Agency.
- Landscaping would be designed so as to soften the impact of the buildings and conceal parking areas, whilst enabling views of what would be a new design benchmark within the area.
- There would be a reduction in building footprint and volume.

Planning History

9/0889/0551 - Use for manufacturing of agricultural machinery

9/1194/0713 - Sales of tractors

9/2001/0961 - The demolition of a building and the erection of an office unit and the change of use and external alterations for light industrial purposes.

Responses to Consultations

The Highway Authority, Severn Trent Water and Environmental Protection Manager have no objection in principle.

The Council's Design Excellence Officer endorses the approach set out in the Design and Access Statement.

Melbourne Civic Society has no objection in principle but makes the following observations:

- a) The siting of the proposed building, and its height, is too close to the road.
- b) Dovesite Business Park opposite is very well screened.
- c) The new building should be set further back into the site and screened to the front with a bund and dense tree and shrub planting using native species.

Responses to Publicity

A neighbour raises the following concerns:

- a) The introduction of 30-40 employees would result in noise, waste and extra traffic that would be harmful to the rural character of the area.
- b) The traffic associated with development would result in danger on this fast stretch of road.

- c) If permission is granted hours of operation should be restricted to 8.00 am – 5.00 pm and there outside working or overnight parking.

Development Plan Policies

The relevant policies are:

RSS8: Policies 1, 4 & 6

Local Plan: Policies EV1, EV10, T6, EMP1 & EMP4

National Guidance

PPS7 (Sustainable Development in Rural Areas)

PPG13 (Transport)

Planning Considerations

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

- The principle.
- Impact on the countryside.
- Residential amenity.
- Highway safety.
- Sustainability.

Planning Assessment

The site has planning permission for industrial use. However it has not operated as such for several years. Had the business use continued, Employment Policy 1 would have favoured expansion, including re-building, subject to environmental criteria being met. Employment Policy 4 favours the re-use of rural buildings, but not new build. PPS7 supports the replacement of appropriately located existing buildings for economic development purposes, vis: *'The replacement of buildings should be favoured where this would result in a more acceptable and sustainable development than might be achieved through conversion, for example, where the replacement building would bring about an environmental improvement in terms of the impact of the development on its surroundings and the landscape.'* Against the positive policy considerations, Environment Policy 1 does not favour new development in the countryside unless necessary for a rural based activity. However, PPS7 is more recent policy than that set out in the Local Plan and therefore updates it. Therefore the principle of re-development in this case can be argued favourably. The other material considerations below have a bearing on this judgement.

The existing buildings do not make a positive contribution to the character and appearance of the countryside and occupy a prominent position in the landscape on the approach to Melbourne. If the principles of the Design and Access Statement were applied, the resulting development would produce the enhancement to this rural area that is sought by the Countryside Agency's 'Towards a New Vernacular'. In particular the proposed landscaping and the use of timber facing materials would respect of the setting of the site in the National Forest.

The proposed use would not cause undue loss of amenity to neighbours, subject to controls over hours of working similar to the nearby business units.

On the advice of the Highway Authority there would be no detriment to highway safety.

PPG13 acknowledges that walking is the most important mode of travel at the local level and offers the greatest potential to replace short car trips, particularly under 2 kilometres. The site is some 1.5 km from the centre of Melbourne. Whilst the site is outside the built-up area, it is served by public transport and is within walking distance of Melbourne. The site is previously used land. Therefore the proposal meets several of the sustainability criteria set out in RSS8, notably by minimising the need to travel by car, by re-using land in preference to developing greenfield sites, and by not having material impact on local infrastructure. The replacement of mediocre buildings with good quality employment floorspace to a high standard of design and with attendant opportunities for energy efficient building practices, further enhances the sustainability credentials of the proposal. It is considered therefore that the proposal should be supported.

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

Recommendation

GRANT permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

2. Approval of the details of the layout, scale, appearance, access and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. The reserved matters submitted in accordance with condition 2 and details submitted in accordance with any other condition of this planning permission shall accord with the principles outlined in the submitted Design and Access Statement.

Reason: To ensure that the development results in a more acceptable and sustainable development than would be the case if the buildings were to be converted, to accord with paragraph 19 of PPS7.

4. 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.

5. No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times nor at any time on Sundays, Bank or Public Holidays: Monday - Saturday 0700 hrs to 1900 hrs.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

6. Should the proposed building have any fixed plant or equipment then the noise from this (LAeq,t) shall not exceed the background level (LA90,t) as measured at the boundary of the nearest residential properties at any time.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

7. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The 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 protecting and pollution control.

8. Unless as may otherwise be agreed in writing by the Local Planning Authority, the layout details required pursuant to Condition 2 above shall include the provision of parking on the basis of 1 space per 30 sq m of net floor space. The approved parking and manoeuvring areas shall be made available for use prior to the first occupation of the development and shall be retained as such thereafter.

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

2. PLANNING AND OTHER APPEALS

(references beginning with a 9 is planning appeal and references beginning with an E is an enforcement appeal)

Reference	Place	Ward	Result	Cttee/delegated
9/2008/0466	Hartshorne	Hartshorne	Dismissed	Committee



Appeal Decision

Site visit made on 16 December 2008

by **Ahsan U Ghafoor** BSc (Hons) MA
MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
22 January 2009

Appeal Ref: APP/F1040/A/08/2082350

20 Edward Street, Hartshorne, Swadlincote, Derbyshire DE11 7HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Jack De Souza against the decision of South Derbyshire District Council.
- The application Ref 9/2008/0466/F, dated 22 April 2008, was refused by notice dated 01 July 2008.
- The development proposed is described in the application as "1 no dwelling"

Decision

1. I dismiss the appeal.

Main issue

2. The main issue is the impact of the development on the character and appearance of the surrounding area.

Reasons

3. The land adjacent to no 20, which forms the appeal site, is an enclosed area. I consider that the character of this particular part of the area is suburban. The fields to the site's east, the gaps between properties and the open spaces give the area a semi-rural appearance.
 4. The proposal comprises of the erection of a single dwelling. Criterion (vi) of Housing Policy 4 of the South Derbyshire Local Plan (1998) indicates that residential development within built-up areas will be permitted provided that it is of a suitable scale and character. No 20 forms the end terrace of one of three blocks positioned around a residential cul-de-sac. Although one of the blocks has a staggered building line, the other two are similar in form and appearance.
 5. The new dwelling would look like a two-storey extension because of its lower ridgeline and narrow gable width. However, the existing dwelling is seen as part of a row of symmetrical terraced properties. I agree with the Council that the development would unbalance this harmony because of the new dwelling's scale and siting. I find that the development would not integrate into its surroundings due to its end of row location.
 6. I acknowledge that the new dwelling would not be prominent from within the wider street scene because of its corner and recessed position. However, the property would directly front the adjoining footpath and it would be visible to residents from within the public realm. Moreover, I saw that from within no 22's rear garden the development would be prominent.
-

7. The existing properties face Edward Street and this gives the street scene an active frontage. I note that the design of the proposed dwelling excludes windows to the front in order to avoid the overlooking of no 22's rear garden. Whilst the east and south elevations would have windows, I find that the lack of fenestration to the front would be uncharacteristic of the street scene despite the property's location.
8. The appellant argues that Housing Policy 11 is limited to larger housing schemes because of its plural wordings. However, I find that it is relevant to any housing development. Contrary to the appellant's arguments, I consider that the new dwelling would appear cramped, due to the contrived size and shape of the plot. In addition, I find that the dwelling's private amenity space would not be reflective of its immediate settings. The development's awkward positioning would not respond to the local character or its context.
9. I concur with the Council's view that the site is previously-developed land. And the two-bedroom property would add to the area's housing mix. In principle the site's residential use would be acceptable to the Council. I note that the development would not materially overshadow adjoining gardens, but I find that the scheme's layout would be out of keeping with the scale and character of the immediate area, and its design would provide an unacceptable environment for the public at large.
10. Contrary to the appellant's arguments, I find that development fails to satisfy Housing Policies 4 and 11 due to its scale and unsymmetrical effect. Therefore, I conclude that the proposal would have a harmful impact on the character and appearance of the surrounding area.
11. I have considered the appellant's view that the Council's planning officers supported the application, but I have evaluated the merits of this appeal in the light of the Council's decision.
12. For these reasons, and having considered all other matters raised including the appellant's Design and Access Statement, I conclude that the appeal should be dismissed.

Ahsan U Ghafoor

INSPECTOR