

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
9/2009/0731	1.1	Melbourne	Melbourne	1
9/2009/0732	1.2	Long Lane	North West	5
9/2009/0767	1.3	Etwall	Etwall	9
9/2009/0800	1.4	Hartshorne	Hartshorne & Ticknall	21

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. 9/2009/0731/FO

Applicant:

South Derbyshire District Council
C/O S G Design Studio Ltd
202 Woodville Road
Hartshorne
Swadlincote

Agent:

Mr Stephen Greaves
S G Design Studio Limited
202 Woodville Road
Hartshorne
Swadlincote

Proposal: **The erection of a detached dwelling at 14 Grange Close
Melbourne Derby**

Ward: **Melbourne**

Valid Date: **04/09/2009**

This application was deferred at the Committee of 13 October for a site visit. A short update to the report to include the comments of Melbourne Parish Council appears in italics at 'Responses to Consultations'

Reason for committee determination

The Council owns the site.

Site Description

The site is vacant, prior to which it was part of the garden to the adjoining property.

Proposal

The application is in outline but is accompanied by illustrative drawings, which show how a house may be accommodated on the site. The means of access is to be determined at this stage.

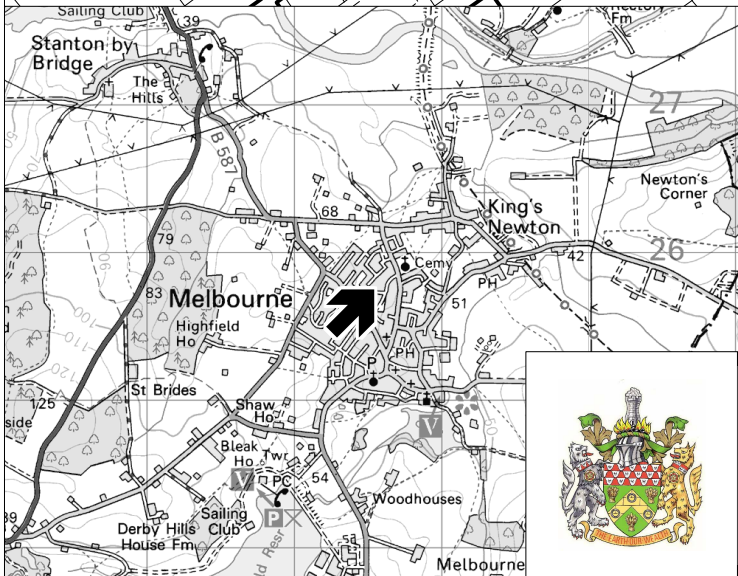
Applicants' supporting information

The Design and Access Statement emphasises that the dwelling can meet the minimum distances set out in supplementary planning guidance.

Responses to Consultations

Melbourne Civic Society has no objection.

The Highway Authority, Severn Trent Water and the Contaminated Land Officer have no objection in principle.



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Melbourne Parish Council has no objection.

Responses to Publicity

Two neighbours object on the grounds of:

- a) Overlooking and loss of privacy.
- b) Grange Close is too narrow for additional traffic and the development would increase danger.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan Policies 1, 2, & 3

South Derbyshire Local Plan Saved Housing Policies 5 & 11 and Transport Policy 6.

National Guidance

PPS1, PPS3

Planning Considerations

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

- The principle.
- Impact on the general character of the area.
- Residential amenity.
- Highway safety

Planning Assessment

The site lies in the village confine and, being most recently used as garden, can be considered to be previously used land. Melbourne is a settlement with a good range of facilities. Therefore development of the site as proposed would be in accord with general sustainable development principles.

The illustrative scheme indicates how the prevailing character and appearance of the existing houses in Grange Close could be reflected, if not replicated, in the new dwelling. Its location would not interrupt the linear grain of the existing frontages and the highway and there would be minimal visual impact arising from the development.

Whilst the application is in outline the illustrative drawings show that the minimum distances set out in the relevant supplementary planning guidance can be met. Therefore the impact on the amenities of the occupiers of neighbouring dwellings would be acceptable.

Subject to the recommended conditions of the Highway Authority there would be no harm to highway safety interests.

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 under Regulation 3 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 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. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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.
4. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and

appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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.

5. 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 the 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 the site.

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

6. 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.

7. 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.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

Item 1.2

Reg. No. 9/2009/0732/NO

Applicant:

Cats Protection Derby Adoption Centre
Long Lane
Dalbury Lees
Ashbourne

Agent:

Mr Paul Emmerson
Agora Management
12 Kings Court
Willie Snaith Road
Newmarket

Proposal: The erection of extensions and alterations to existing cat re-homing centre together with the refurbishment of and part demolition to the existing garage block at Cats Protection League Derby Shelter Long Lane Dalbury Lees Ashbourne

Ward: North West

Valid Date: 11/09/2009

Reason for committee determination

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

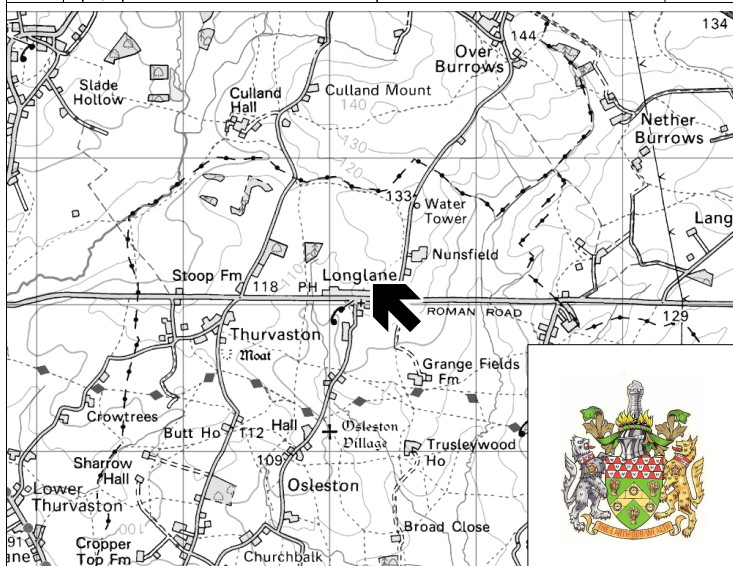
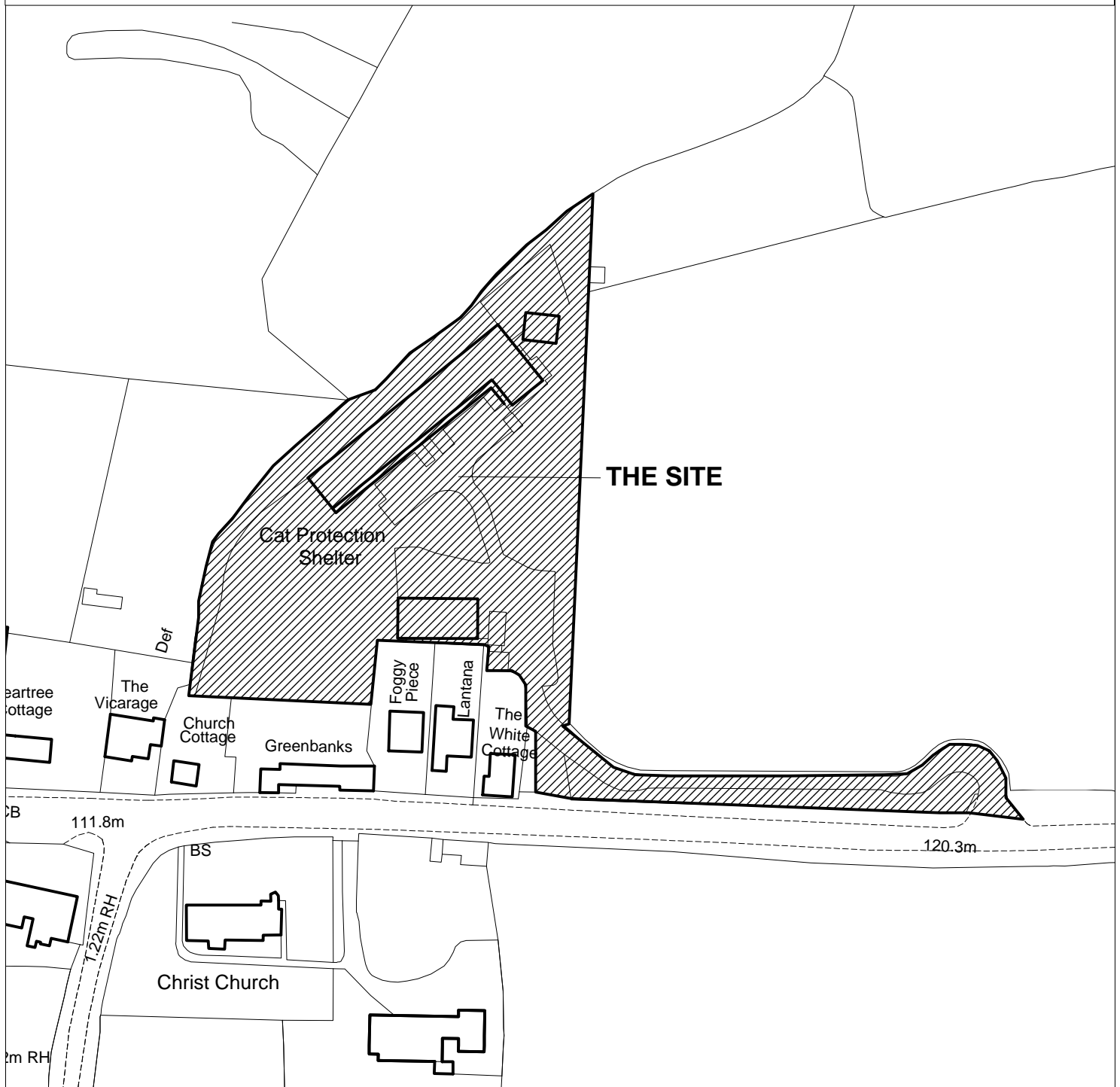
Site Description

The Cats Protection League site at Long Lane lies to the north of the settlement with access from Long Lane itself. The access was formed when the site was first developed and the hedge along the visibility sight line to the access is now well established and well maintained. There is a public footpath that follows the northwest boundary of the site that emerges onto Long Lane adjacent to Church Cottage. There are six houses that abut the site, one of which is the centre manager's home. The boundaries of the site affected by the proposals are illustrated in the photographs to be displayed at the meeting.

Proposal

The proposals can be split into three components. The first is the extension to the cattery at its southwest corner; the second is the extension of the reception area to include sales of 'cat' related products; the third is the replacement/adaptation of a dilapidated 'garage' structure on the boundary of the site with 'Lantara' and 'The White Cottage'.

**9/2009/0732/NO - Cats Protection League Derby Shelter, Long Lane,
Dalbury Lees, Ashbourne DE6 5BJ**



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Applicants' supporting information

The existing facility is at its limit in terms of accommodation for cats and as such new facilities are required to enable the League to continue to rescue, care and re-housing cats and kittens in its care. The extensions to the reception area and alterations to the derelict garage would assist in this aim by providing more accommodation on the site for the manager and storage facilities. Pedestrian access around the building would be extended to accommodate the extension. The development would not adversely affect the local community; the buildings have been designed using environmentally friendly materials including lighting and heating. Foul and surface water drainage would be disposed of to the existing systems.

Planning History

The site was granted permission in 1997 with subsequent applications permitted in 1999 and 2000 that has resulted in the development seen today.

Responses to Consultations

The County Highway Authority and Severn Trent Water have no objection.

Responses to Publicity

6 letters and e-mails have been received objecting to the development for the following reasons: -

- a) The proposal would bring the building closer to the houses and because of the difference in ground levels increase the potential for overlooking, reducing privacy.
- b) Noise levels would be increased, as cleaning and other operations would be brought closer to the houses.
- c) The development would bring people closer to the houses by extending access around the building. The site operates 7 days a week.
- d) The existing building is very large and jars with the rural ambience of the small quiet village and to increase the size of the building would compound the effect it has on this rural area. This is due in part to the bright materials of construction used in the original building – it has an industrial appearance not suited to this rural area. The application seeks to increase the amount of built development on the site by at least 20% where the existing buildings already cover a large proportion of the site (see the aerial photograph that accompanies the application).
- e) Fund raising activities involve the erection of stalls and tents and these come close to the house boundaries contrary to an agreement that it is understood was made when the Cats Protection League first occupied the site – land for these activities would be reduced bringing them closer to the houses.
- f) There would be increased use of the access to the detriment of highway safety.
- g) There have been problems of oily residue and soap scum in the ditch adjacent to the adjoining land that is used as a paddock.
- h) There is no objection to the refurbishment of the garage or the reception extension but the cattery size should be limited.

Development Plan Policies

The relevant policies are:

RSS8: Policies 1, 2 & 3.

Local Plan: Environment Policy 1

National Guidance

PPS 7

Planning Considerations

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

- The Development Plan.
- The impact on the countryside.
- The impact on neighbours.
- The public footpath
- Drainage issues

Planning Assessment

The Development Plan requires that development be necessary in the countryside before it is permitted. Given that this is the extension of an existing facility approved in the mid 1990's it would not be feasible to provide an extension to the facility elsewhere. Accordingly the principle of the development is considered acceptable.

The materials proposed would match the previously approved materials on the site and must therefore be considered appropriate. As such the proposed works would appear as a modest extension to the existing facility and would thus not unduly affect the character and appearance of the countryside.

One of the main objections is that the extension would bring the operational part of the building closer to the houses on Long Lane. The nearest dwelling to the site, excluding the manager's house, is some 50 metres away. Even if there were direct views between the extension and these dwellings, 50 metres is considered a reasonable separation between the houses and the proposed extension. This comment is given on the basis that the majority of the objectors have stated that they have no objection to the extension of the reception area or the refurbishment of the garage building.

The extension would affect the line of the public footpath that adjoins the site. The application proposes the realignment of the path if planning permission were granted (a separate process would then be required). It is considered that the proposed realignment would not prejudice the enjoyment of users of the footpath.

It is alleged that the site has caused pollution incidents in the form of an oily scum and soap residue. The provision of oil interceptors should ensure that the run-off from the proposed laundry and buildings is intercepted before entering the drainage system.

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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour and texture unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
Reason: In the interests of pollution control.

Informatives:

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

Item **1.3**

Reg. No. **9/2009/0767/FM**

Applicant:

Judy Taverns
Walnut Farm
Main Street
Burnaston
Derby

Agent:

Mr Jonathan Jenkin
The Planning Design Practice
Ground Floor Suite 4
Woburn House
Vernon Gate
Derby

Proposal: **New parking, access and landscaping to existing Public House and the erection of four dwellings with access at The Spread Eagle Public House Main Street Etwall Derby**

Ward: **Etwall**

Valid Date: **21/09/2009**

Reason for committee determination

The application has been brought to the Committee at the request of Councillor Lemmon as issues of local concern have been raised.

Site Description

The site comprises the curtilage of The Spread Eagle public house that lies adjacent to Main Street, Willington Road and Portland Street. The site for the houses rises from the north to south by about 1.5 metres. There are few boundary features to the Portland Street frontage but a 2.6 metre high wall separates the site from the houses on Main Street and panel fence 1.8 metres high to the dwellings on Portland Street behind Plots 3 & 4. Again there are no solid boundary features to the site on its Willington Road or Main Street frontages. The blank rear wall to Church View encloses part of the eastern boundary. The pub currently has approximately 36 parking spaces.

Proposal

Two of the dwellings would front Portland Street and two would be at right angles to the street set back behind an existing garage. The application proposes that a total of 7 parking spaces be provided to serve the houses, (this includes one for parking by a disabled person). The applicant's arguments in favour of the development are set out below but the development would take place on the existing public house car park leaving 14 spaces to serve the pub some 6 of which would be formally made available for general public parking during the day.



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In addition, a raised planter area between 0.5 and 1.0 metre high within which herbaceous planting would be constructed on the Main Street frontage. Behind the wall of the raised bed, a seating area for the pub would be formed. Three field maples would be planted around the Willington Road and Main Street junction.

In terms of highways the frontage to Portland Street would be redefined by the use of blue brick paviors, a feature that would be carried around the Willington Road frontage to enclose the proposed 'public' parking area and then around the building to define the area between the building and the seating area. A 1.6m high brick wall with a curved coping would achieve the separation of the proposed pub parking and the proposed housing.

A recent minor amendment has been made to the orientation of plots 3 and 4 to comply with the Council's space standards (SPG).

Applicants' supporting information

The site occupies an important location in the centre of the village; it lies in a sea of concrete without any definition of its boundaries and presents an unattractive feature to the occupiers of houses on Portland Street.

The Design and Access Statement goes on to identify historic maps that identify a presence on the site dating back to 1884 that also identifies properties on the west side of Portland Street.

Etwell is a sustainable location to site new housing development as it is well served by buses, lies close to a national cycle route, has a good range of shops and local services including John Port School. It is a sustainable location for development.

The application site qualifies as a brownfield site in a sustainable location. There would be a loss of parking provision at the pub but daily use of the pub car park amounts to some 6 – 10 spaces out of a total of 36. A subsequent survey by the pub owners following a request from the County Highway Authority, has confirmed this level of usage. These proposals represent a reasonable level of parking for both the pub and the proposed dwellings.

Four dwellings are proposed which is considered to represent a reasonable level of development that still allows a reasonable level of parking provisions for the pub. The application also makes provision for the allocation of 6 of the pub spaces for use by the local community to reflect the level of use of those spaces that currently takes place. All parking spaces at the pub as it exists at the moment are in private ownership and could be closed to public use at any time by the site owners.

Having identified the shortcomings of the site, as it exists, the applicants go on to look at the Conservation Area as a whole and seek to identify those characteristics that contribute to the character and appearance of the Etwell Conservation Area. Having done this the design of the dwellings was evolved and this has been amended slightly during the course of the consideration of the application to reflect comments from both conservation officers and the County Highway Authority. The applicants have also sought to provide a clear boundary between the pub and the highway on the Main Street frontage. The applicants consider that the proposals on this frontage would enhance the public realm in this part of the conservation area.

Overall the use of materials, the new buildings and the enhancement of the Main Street frontage together with landscaping would represent an enhancement of the Etwall Conservation Area; restoring an historic part of the village with well-designed dwellings to the benefit of the character and appearance of the area.

The applicants are aware of concerns about the impact of building operations in Portland Street and the potential obstruction of the street that causes concern to objectors. The applicants will ensure that a compound of a size sufficient to hold all the building materials and staff is formed in the rear of the site on the proposed parking and garden areas. This they assert should be sufficient to allow Portland Street to remain open during building operations.

Planning History

There is little relevant planning history; the last application was for a small kitchen extension that objectors have referred to. In early 2000s an application for a porch and patio and an application for signs were permitted.

Responses to Consultations

Etwall Parish Council objects to the development for the following reasons:

- a) The junction of Willington Road and Portland Street is already a dangerous and busy junction. Putting the pub car park entrance onto Portland Street plus the 4 extra houses will only make the situation much worse.
- b) Portland Street is simply not wide enough to take extra traffic (or parking). It is used for access to both the Primary and John Port Schools. It is the sole route for ordinary traffic and emergency vehicles to reach the Frank Wickham Hall and Peartree Court.
- c) The trees indicated on the plan that are on or near the junction with Willington Road will make visibility entering or leaving Portland Street even more hazardous.
- d) The owner of the Spread Eagle obviously wishes to bring in more custom by having a kitchen extension and so serve food. 14 parking spaces simply are not enough; people will end up parking on Willington Road (which is already busy when the post office and other shops are open) as well as Portland Street, which is currently difficult to chicane your way through when cars are parked on it. The application tries to give the impression individuals will use the bus or cycle to their facilities but for most customers this simply isn't true. On recent counts there have usually been at least 14 cars in the current car park during the day and on some occasions it has actually been full.
- e) The proposed "pavement" in front of the units on Portland Street serves no purpose and further limits the roadway. If the application were approved, it would be essential to set these two houses deeper into the car park area.
- f) Four 3-bedroomed houses will create a need for more parking space than is allocated to them in the application. There is inadequate parking space for four dwellings.
- g) Pulling out of the parking bay at the rear of the houses will cause a potential danger in itself as visibility up toward Frank Wickham Hall will be

obscured by Unit 1 & Unit 2 as they are so close to the Street with hardly any frontage.

The County Highway Authority has carefully considered the proposal and the supplementary evidence submitted since the application was made. Having considered the applicants submissions on car parking, the conclusion is that the development is acceptable in highway safety terms. There is concern but acceptance of the applicant's case for 7 parking spaces to serve the houses on the basis that this would comply with adopted policies.

The Environmental Protection Manager has no objection subject to conditions to examine the potential for contamination as the site lies within a buffer zone for an area of contamination.

Severn Trent Water has no objection subject to conditions.

The Head of Housing has expressed concern that increased traffic from construction will restrict access for residents of Peartree Court and hamper access from emergency vehicles to this older client group. The road is already obstructed given the narrow road and demand for parking.

Responses to Publicity

11 letters and emails have been received. One supports the application on the basis that the proposed development would enhance this part of the village; the formal retention of the parking opposite the shops is welcomed and it is considered that the housing design and landscaping are well thought out. This supporter accepts that the existing parking provision is in private ownership and any development would have resulted in restricted parking on the site. The remaining 10 object to the development for the following reasons: -

- a) The loss of car parking would exacerbate problems in the village arising from parents bringing children to school that causes blockages to the narrow roads, particularly outside the post office. The site provides much needed parking in the village. More parking would occur on Portland Street causing a narrowing of the carriageway. There is not enough parking for the proposed houses.
- b) Many residents at Peartree Court rely on the road for access to the village shops on mobility scooters and more parking on the street would make this journey more hazardous for them. At the moment they can move out of the way of traffic by using the parking area, this would be removed if permission were granted.
- c) The loss of the open area would have a negative impact on the character of the village and would make this area of the village feel claustrophobic. The proposals are not in keeping with the village and should not be permitted.
- d) The fact that houses used to exist on Portland Street is irrelevant as Frank Wickham Hall has been developed since then, and permission should be refused.
- e) The houses would have little space for gardens or outside space. The sea of concrete could be addressed simply by landscaping the car park without the need for housing.
- f) Emergency services frequently need to access Peartree Court, especially the fire service that responds to fire alarms set off by elderly residents.

- g) Many young children attend the preschool group that takes place in Frank Wickham Hall and their safety would be compromised.
- h) The local bus has difficulty negotiating the roads at peak times.
- i) The aim of the owners is to increase trade; to do this more parking space is required.
- j) The owners wish to make a fast buck and when the pub fails will seek to redevelop the pub site.

Development Plan Policies

The relevant policies are:

EMRP: Policies 1, 2, 3, 12 & 27

Saved Local Plan: Housing Policy 5 & 11, Environment Policy 12

National Guidance

PPS 1, 3 & 13, PPG 15.

Manual for Streets.

Local Guidance

Historic South Derbyshire (SPG).

Housing Layout and Design (SPG).

Planning Considerations

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

- The Development Plan.
- Impact on the Etwall Conservation Area.
- Impact on neighbours.
- Loss of parking in Etwall.
- The parking provision for the houses.

Planning Assessment

The site lies within the Etwall Conservation Area and the village is one that is identified as suitable for housing development within the village confines. The principle of the development is therefore acceptable in principle under the provisions of the Development Plan. The Development Plan issues then turn on the impact on the Conservation Area in terms of its character and appearance and the impact on the neighbours in terms of overlooking and overbearing, and access and parking. Amenity issues are assessed against the criteria in the SPG – Housing Layout and Design.

Impact on the Conservation Area

In its present state, the land subject of this application detracts from the character and appearance of the Etwall Conservation Area. The unbroken tarmac surface, without boundary walls or landscaping, fails to provide a context for the pub itself, which is still a worthwhile historic building.

Perhaps more importantly, the impact of the Spread Eagle car park in its current form is made worse by its position at the principal road junction in the village, and by its juxtaposition to a wide stretch of Main Street the appearance of which is overwhelmed by traffic management signs and markings. The combined result is a fairly bleak and soulless area, particularly disappointing at such an important location.

Historically there were buildings on the application site; it is their demolition during the 20th century that has created this undesirable gap site. In principle a development that will recreate townscape and a sense of enclosure at this important focal point is to be encouraged and as such there is no conservation objection to the development subject to the conditions recommended below.

There is also some historic evidence that the area in front of the pub was used as a gathering place in the village. The works to the frontage would restore a sense of place in the village centre and this aspect of the application is also considered a positive enhancement to the Conservation Area.

Impact on Neighbours

There are three groups of dwellings directly affected by the development; the range of converted dwellings fronting on to Main Street; the dwellings opposite the application site facing Plots 1 & 2 on Portland Street and three dwellings (10, 12 & 14 Portland Street) to the rear of Plots 3 & 4.

Main Street Dwellings

A minor amendment to the orientation of plots 3 and 4 means that there would be no undue overlooking or overbearance arising from the development, as the minimum separation distances would be achieved.

Portland Street (Plots 1 & 2)

Due to its location in the Conservation Area, the SPG states that separation distances can be reduced where the overall historic character of the area suggests that relaxation of the guidelines. Given the historic evidence of the presence of buildings on this site fronting Portland Street, there is a justification for the relaxation of the standards in this case. There would be views between main habitable room windows across the street but the restoration of a built frontage to the Spread Eagle car park is considered an enhancement to the character and appearance of the Conservation Area and therefore more important.

Portland Street (Plots 3 & 4)

Again, there is a difference levels between the two sites of about 1 metre. No 14 is unaffected by the proposals as it lies outside the sector of assessment to be affected by overlooking or overbearance. No 10 have had an extension that presents a blank gable to the application site and again is unaffected in terms of habitable room windows. No 12 has a main dining room window and a secondary living room window that look towards the site. The minimum separation distance is 12 metres + 20% giving a requirement for 14.4 metres. 12 metres are achievable but not 14.4 metres. In mitigation the proposed house would be screened behind the some trees 9.0 metres high that lie within the curtilage of the neighbours property and the dwelling are located

to the north of the window affected. Given that the normal separation is achieved, it is considered that the insistence on 14.4 metres separation would be difficult to justify for the reasons specified above. No objection has been received from the owner of this property.

Loss of Parking

The loss of parking provision in the village has been one of the main objections to the application. Indeed the County Highway Authority requested a justification for the reduction from the applicants. The supplied explanation has been accepted by the County Highway Authority and subject to the recommended conditions, there is no objection. It is part of this application that 6 of the 14 spaces be made available on a formal basis to the community. This may be viewed as a positive step to meeting the need for extra parking in the village. Many of the cars that are parked in the pub car park do so without the consent of the landowners and as stated above, the facility could be removed at any time. Accordingly refusing permission on these grounds is not considered reasonable.

The parking provision for the houses

The County Highway Authority has expressed concern about the 7 spaces proposed for the houses (6 +1 disabled person space). The applicant is of the view that the location of the site in the village centre and the close proximity of the bus stops and shops mean that the development meets all the relevant policies for the locality. The County Highway Authority reluctantly accepts that reliance on the private motorcar should be minimised and as such has accepted the level of proposed parking. No other space exists in the housing part of the development to provide extra parking and given the lack of objection, the parking provision for the development is acceptable given that refusal based on the lack of parking is unlikely to be sustained at appeal.

Conclusion

Given the conservation benefits that would ensue and the reluctance of the Highway Authority to raise objection to the parking provision, the proposal is considered overall and on balance, to represent a positive enhancement to the Etwall Conservation Area and should therefore 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. 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. 28/05/523/003 Rev D; /006 Rev A; /004 Rev A; /005 Rev C.

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

3. 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 preserving the setting of the building and the character of the area.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, 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.

5. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority. These shall include plain clay tiles for the roofs. The work shall be carried out in accordance with the approved details.

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

6. Large scale drawings to a minimum Scale of 1:10 of eaves, verges, dormer windows, gable parapets 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.

7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), 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 before construction is commenced. 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. Before development is commenced drawings showing the precise details of paving patterns specifications and samples of the materials to be used in the hard landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the dwelling the landscaping is intended to serve or, in the case of the landscaping around the public house, prior to the occupation of the last dwelling hereby permitted.

Reason: In the interests of the appearance of the buildings and the character of the Etwell Conservation Area.

9. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the buildings and the character of the area.

10. All boundary walls shall have a traditional style of shaped clay or stone coping the details, including samples, of which shall have been previously agreed in writing by the Local Planning Authority. The walls shall then be constructed using the approved copings and thereafter retained unless the Local Planning Authority has granted planning permission to any variation in response to an application made in that regard.

Reason: In the interests of the appearance of the buildings and the character of the Etwell Conservation Area.

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

Reason: In the interests of the appearance of the buildings and the character of the Etwell Conservation Area.

12. 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 buildings and the character of the Etwell Conservation Area.

13. Pointing of the existing/ proposed buildings shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand).

Reason: In the interests of the appearance of the buildings and the character of the Etwell Conservation Area.

14. A sample panel of pointed brickwork/stonework 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the appearance of the buildings and the character of the Etwall Conservation Area.

15. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of soft landscaping including proposed trees and a planting specification.

Reason: In the interests of the appearance of the buildings and the character of the Etwall Conservation Area.

16. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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.

18. 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.

19. Prior to the first use of the development hereby permitted, the land in advance of the sight lines shown 28/05/523/003 Rev B shall be provided for visibility purposes in accordance with the details shown on the drawing 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.

20. Before any other operations are commenced, a temporary access shall be formed into the site for construction purposes, and space shall be provided in accordance with the details described in your e-mail dated 14 October 2009, within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives and visitor's vehicles, loading and unloading of goods vehicles, all in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

21. Prior to the first use of the development hereby permitted, parking facilities shall be provided in accordance with the layout shown on Drawing 28/05/523/003 Rev B. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), the parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the site unless otherwise be approved in writing by the Local Planning Authority.

Reason: To ensure that adequate parking provision is available.

22. Notwithstanding the submitted details, the windows serving the en suite bathrooms on plots 3 and 4 shall be permanently glazed in obscure glass.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

- whether the land in question is already affected by contamination through source - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or,

when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Sections 38 and 278 of the Highways Act 1980, details for the required works in Highway for the revised layout for Portland Street should be submitted to the Director of Environmental Services at County Hall, Matlock for approval and for the necessary Agreement to be drafted and signed before any works commence within highway limits.

Item **1.4**

Reg. No. **9/2009/0800/FH**

Applicant:

Mr Andrew Mansfield
53 Woodville Road
Hartshorne
Swadlincote

Agent:

Mr Darryn Buttrill
bi Design Architecture Ltd
79 High Street
Repton

Proposal: **Demolition of the existing garage and the erection of an extension together with the widening of driveway and extension of the existing garden curtilage at 53 Woodville Road Hartshorne Swadlincote**

Ward: **Hartshorne & Ticknall**

Valid Date: **24/09/2009**

Reason for committee determination

The application is brought to Committee because the recommendation is to permit something that technically may be contrary to policy.

Site Description

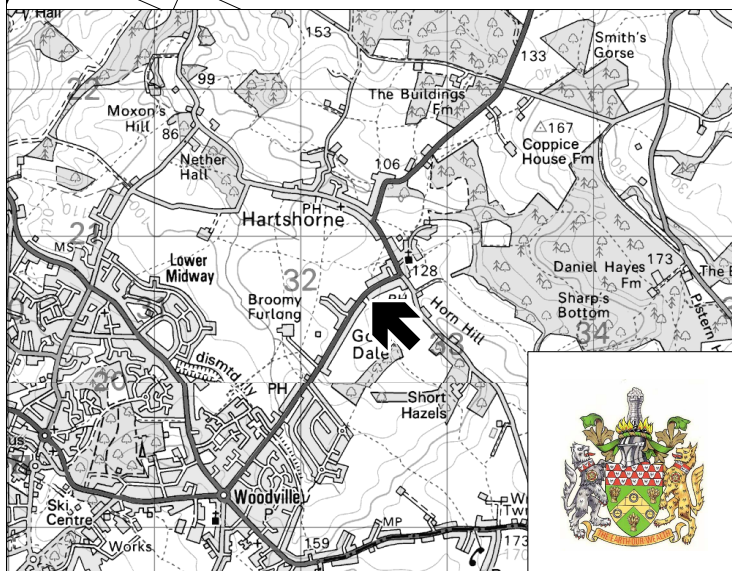
The application site is a semi-detached house situated within Hartshorne village on the edge of the defined village boundary. To the south-west is an area of agricultural land beyond which lies an area of ribbon development that stretches southwards along Woodville Road. To the east and west is open countryside.

Proposal

The proposal is for the demolition of the existing garage and the erection of a 1½ storey and single storey extension to the side and rear of the house extending out to the existing side boundary, the widening of the existing driveway by 1.6m and the extension of the existing curtilage to allow pedestrian access to the rear of the property. The extended curtilage proposed includes a 1.5m strip of adjacent agricultural land to the southwest of the property measuring some 25m in length. A post and rail fence would be erected and a new hedgerow planted along the new boundary.

Planning History

A previous application (9/2009/0525/FH) for an extension and curtilage extension into the adjacent agricultural land by 2.4m was refused as it was considered that the



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South Derbyshire District Council. LA 100019461. 2009

proposal involved the unwarranted intrusion into an undeveloped gap that formed part of a clear distinction between Hartshorne and the adjacent ribbon development.

Responses to Consultations

The Highway Authority has no objection.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

Local Plan: Saved Housing Policy 13 and Environment Policy 1

National Guidance

PPS7

Planning Considerations

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

- Design and impact on the amenity of the neighbouring property.
- Impact on the character of the rural area.

Planning Assessment

The proposed extension has been designed to be subordinate to and in keeping with the existing dwelling. There would be no adverse impact on the adjoining neighbouring property and the proposed extension would therefore be in accordance with the requirements of Housing Policy 13.

PPS7 and Environment Policy 1 seek to protect the countryside from development that would have an adverse impact on its rural character. The area of agricultural land to the south-west of 53 Woodville Road was considered for residential development as part of the withdrawn Local Plan. Although not material to the consideration of this case, it is interesting to note that the Inspector's Report (October 2004) identified the land as a relatively narrow gap in a developed frontage which separates the village of Hartshorne from the adjacent ribbon development forming part of the villages countryside setting the development of which would lead to the loss of distinction between the village and ribbon development to the south.

The previous application proposed to include an area of land measuring some 2.4m in width by 27m in length. The current application reduces this to 1.5m and 25m respectively. The land is bordered to Woodville Road by a hedge which obscures views of the land from Woodville Road. This hedge would remain in situ and the hedge and fence along the south-west boundary of No. 53 Woodville Road re-positioned behind. The proposed inclusion of land would not be clearly visible from the main road and the rural character of the area therefore would not be adversely affected. The limited width of the proposed curtilage is not considered to represent any significant erosion into the rural gap between the village and ribbon development to the south. A condition

restricting development on the land would help to secure the openness of the landscape and potential domestication of the land.

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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. In the first planting season prior to the commencement of development a new hedgerow including appropriate hedgerow trees shall be planted along the new curtilage boundary in accordance with a planting and maintenance schedule which shall have received the prior written approval of the Local Planning Authority.
Reason: In the interest of the amenity and rural character of the area.
4. Any hedge 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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, no buildings and no gates, walls, fences or other means of enclosure other than as shown on the submitted drawings, shall be erected on the application site without the prior written approval of the Local Planning Authority.
Reason: To ensure that any such structures are appropriate to the character and appearance of the building.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/delegated
9/2009/0287	Shardlow	Aston	Allowed	Delegated



Appeal Decision

Site visit made on 2 September 2009

**by Andrew J Seaman BA (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:
16 September 2009**

Appeal Ref: APP/F1040/D/09/2109870

Orchard Barn, Great Wilne, Shardlow, Derby, DE72 2HF

- 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 Russell Gourlay against the decision of South Derbyshire District Council.
 - The application Ref 9/2009/0267/FH, dated 31 March 2009, was refused by notice dated 3 June 2009.
 - The development proposed is a single storey rear extension.
-

Decision

1. I allow the appeal, and grant planning permission for a single storey rear extension at Orchard Barn, Great Wilne, Shardlow, Derby DE72 2HF in accordance with the terms of the application, Ref 9/2009/0267/FH, dated 31 March 2009, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until precise details or samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 3) The proposed eaves and verge detail shall match that of the existing building.
 - 4) Large scale drawings to a minimum scale of 1:10 of 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 commencement of the development hereby approved. The joinery shall be constructed in accordance with the approved drawings.

Main issues

2. The main issues raised by this appeal are the effect of the development upon the character and appearance of Orchard Barn and the effect of the development upon the setting of nearby listed buildings.
-

Reasons

3. The application forms indicate the appeal site address as Wilne Farm. However, based on my assessment of the submitted details and following my visit, the site is evidently known as Orchard Barn. I have determined the appeal accordingly.
4. Orchard Barn and its attached neighbour lie within designated Green Belt. They were constructed following the grant of planning permission in 1993 which had regard to the very special circumstances associated with the preservation of the nearby listed threshing barn. The Council considered that both new dwellings were designed to resemble the form of agricultural buildings and consequently were sympathetic to the area. In this context, I note that the two homes have a relatively simple and discernible linear form. This appears, with regard to my experience, representative of many traditional agricultural buildings and not at odds with the historic agricultural character of the locality.
5. Yet the two homes are not converted barns and occupy substantial, evidently domesticated, plots. They appear rather sectional in their design and contain features of more modern and domestic origin, particularly within the fenestration and garage details. They are effectively divided from the farmhouse and the threshing barn to the north and east and sit comfortably within the loose grouping of buildings within Great Wilne which is an established hamlet wherein I saw buildings with elements orientated at right angles to one another. It is with an awareness of this context that the effect of the appeal scheme falls to be assessed.
6. The appeal proposal would break the rectilinear form of the buildings, particularly as a result of the distinct gable and roof orientation which would be set at right angles to the existing ridge line. However, I am aware that an alternative extension has recently been approved in this location with an extended form of cat slide roof. Whilst this fall back position may be a less overt form of addition, both schemes would emphasise the sectional nature of the building and erode the simplicity of the intended linear form.
7. The appeal proposal would be subordinate in scale and subservient in function to the existing dwelling. It would be at the rear of the building and would not be apparent from any public vantage point. Indeed the existing boundary screening has, in my view, effectively separated Orchard Barn from any evident link with the nearby listed buildings, the settings of which would be materially unaffected, and thereby preserved, by the proposal.
8. Despite the intrusion of the scheme into the linear form of the two dwellings and the proposed use of a gable end to the extension, I am satisfied that the proposed addition would not appear incongruous and that it would be proportionate to the original building. The proposed design reflects aspects of the existing building in its detailing, including the glazing, and the extension would be a relatively simple addition to an established residential property. Subject to the attached planning conditions, I am satisfied that no harm would be caused to either the character and appearance of Orchard Barn or the setting of the nearby listed buildings which would warrant dismissal of the appeal. I find that the proposal would not run contrary to the provisions of the

South Derbyshire Local Plan, particularly the design intentions of Housing Policy 13, Green Belt Policy 3B and the listed building objectives of Environment Policy 13.

9. I have amended the suggested planning conditions of the Council to ensure a suitable external appearance to the extension in keeping with the main building. However, I consider the additional suggested conditions relating to pointing, a brickwork panel, guttering and matters such as service pipework to be unreasonable and unnecessary upon such a modest and unobtrusive extension to the principal structure.

A J Seaman

Inspector