

DEVELOPMENT CONTROL COMMITTEE – 15 November 2005

In accordance with the provisions of Section 100D of the Local Government Act 1972, BACKGROUND PAPERS are the contents of the files whose registration numbers are quoted at the head of each report, but this does not include material which is confidential or exempt (as defined in Sections 100A and D of that Act, respectively).

REPORT OF THE HEAD OF PLANNING SERVICES

1. Planning Applications

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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

1. The issues of fact raised by the 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.

15/11/2005

Item 1.1**Reg. No.** 9/2004/1634/F**Applicant:**

Hilton Parish Council
 Clematis Cottage
 Willowpit Lane
 Hilton
 Derbyshire
 DE65 5FN

Agent:

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

Proposal: The erection of a single storey brick built pavilion incorporating four changing rooms, officials changing, kitchenette and small meeting room along with associated parking at Land to the south of The Mease Hilton

Ward: Hilton

Valid Date: 05/01/2005

Site Description

The site lies to the south of The Mease. The land adjacent to the site was used as a sports field when the site was operating as an MOD depot. The fields are in the ownership of the Council having been transferred by the developers in the last year. The Council has undertaken some preparation works to allow the site to be used for two football pitches.

There is a wooded area adjacent to the pitches that help to screen them from the housing on the opposite side of The Mease but these trees would only partially screen the pavilion. There is an existing access to the site from one of the traffic Islands that have been constructed along the length of The Mease.

Housing lies on the opposite side of The Mease and the main car park would occupy land closest to the road.

Proposal

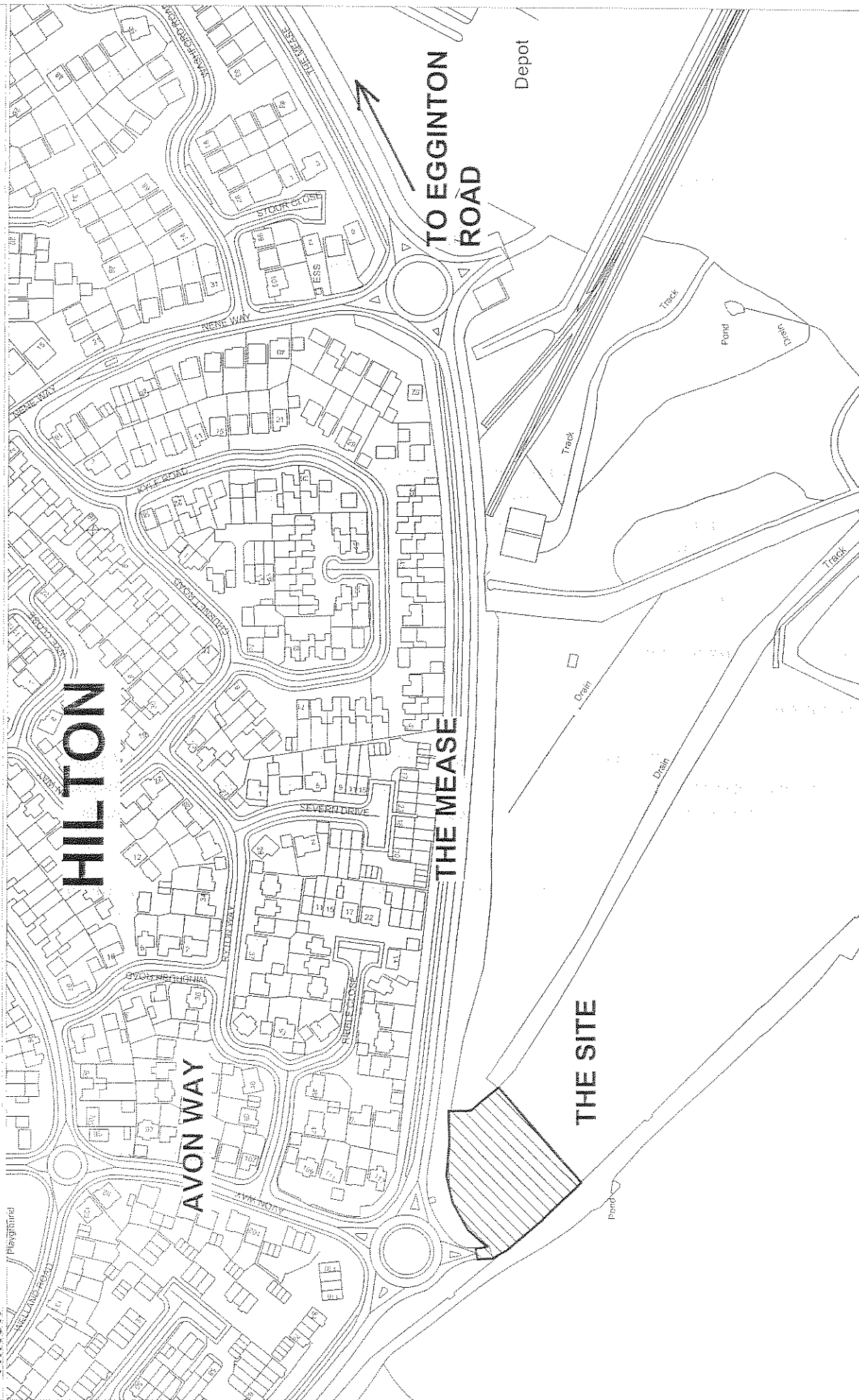
The development is as described above but the building would be located on the southeast boundary of the site, closest to the football pitches.

Applicants' supporting information

The proposed floor plans indicate that the building would contain 4 changing rooms, associated shower and toilet facilities, changing facilities for officials and a lounge and kitchen area. Precise details of the materials of construction have not been suggested on the application form but a brick and tile roof construction is suggested in the supporting information.

9/2004/1634/F Land to south of The Mease

Hilton



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SWADLINCOTE DE11 0AH

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The site would have parking for up to 53 car parking spaces and there would be cycle racks provided. It is proposed that the site be fenced and landscaped to provide security. This would be a joint facility shared by the Parish Council and Hilton Harriers and would provide an important additional community facility for the village. The proposal is supported by Government advice in PPG 17 and by policies in both the adopted Structure and Local Plans

Planning History

The land has been identified on the Master Plan for the Hilton Depot site for use as sports fields since the Master Plan was first drawn up in the early 1990's when permission was first granted for the redevelopment of the Hilton depot for housing and employment use. The land was used as a sports field prior to the redevelopment of the depot site. No other applications have been made on this part of the depot site.

Responses to Consultations

Hilton Parish Council has no objection.

The County Highway Authority requires that parking and manoeuvring space be provided before the facility is brought into use.

The Environment Agency has required that a flood risk assessment be carried out as the land has the potential to flood being closer to the watercourses in the area than the housing on the opposite side of The Mease. In discussions with the Environment Agency, it was stated that the Council's Land Drainage Officer had no record of the land flooding. However, a full assessment has been submitted to the Agency and has resulted in the Agency providing a 'no objection' comment subject to conditions.

Responses to Publicity

A considerable length of time has passed since the application was first submitted. However, no new dwellings have been constructed within 4 metres of the site boundary since the application was submitted. Arising from the initial consultation, 2 letters objecting to the development have been received. The grounds for objection are as follows: -

- a) The proposed siting is not acceptable; there would be noise and disturbance to residents especially on Saturday and Sunday mornings when most people expect to enjoy the property. The pavilion would be better sited elsewhere on the site where it could be screened by the trees.
- b) In addition to the natural noise that would occur, from the very use of the site, there would also be the noise of the traffic coming and going from the site.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: None

Local Plan: Community Facilities Policy 1, Recreation and Tourism Policy 1, Housing Policy 1.

Planning Considerations

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

- The Development Plan
- The Master Plan
- The impact on neighbours

Planning Assessment

Housing Policy 1 allocates Hilton Depot as a major housing site for the Derby Sub Area, the majority of the housing has now taken place and the last original housing phase is under construction. As part of the allocation the policy states that community facilities should be provided. The recreation and communities facility policies seek to permit such facilities provided they do not cause undue disturbance, are adequately serviced and are well designed.

The Master Plan for the development of the site allocates the land for use as a sport pitch. The land adjacent to the pitches has an area of hard surfacing. The access and services are readily available. The site is in an area known a Flood Zone 2 but the Environment Agency is satisfied the facility can be provided without being subject to flooding but recommends conditions be attached to the permission.

The siting of the facility is the main concern raised by the objectors. The site is between 20 and 30 metres from the nearest dwellings, the building is even further away. The site would not be used on a constant basis but it is accepted that the use of the site would be at its height at weekends. However, the site could be utilised without the presence of the changing facility and there would still be noise and disturbance to residents from the use of the pitches. There is insufficient room close to the services that would allow the building and parking facilities to be located elsewhere in the vicinity and allow the use of 2 pitches.

In conclusion it is considered that the siting of the changing facilities in the position shown would best serve the needs of the wider community without unduly prejudicing the amenities of the residents on the opposite side of The Mease.

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. 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.

3. 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.

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

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

5. Before the building hereby permitted is brought into use the parking and manoeuvring space indicated on the submitted drawing shall be submitted to and approved in writing by the Local Planning Authority. Thereafter these areas shall be retained available for their designated use.

Reason: To ensure that adequate parking and manoeuvring space is available to serve the development.

6. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

7. 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.

15/11/2005

Item 1.2**Reg. No.** 9/2005/0871/F**Applicant:**

Mr R Lyon
The Styne's Froggatt Lane
Froggate Bridge
Froggate
Derbyshire

Agent:

Freeman Associates
Rockingham House 92 Church Street
Swinton
Mexborough
South Yorks
S64 8DQ

Proposal: Refurbishment of existing flats to include extensions and alterations, the creation of two new units within community room, external garages, bin stores and car parking at Former Care Home 20-68 Bass's Crescent Castle Gresley Swadlincote

Ward: Linton

Valid Date: 08/08/2005

This application is brought before the committee at the request of the Councillor Southern.

Site Description

The site is bounded on all sides by existing housing. The brick and tile one and two storey buildings that are identified as Blocks B – F are currently vacant but the complex formerly provided 24 units of sheltered housing (12 one bedroom flats and 12 bedsits) together with visitor bedrooms and a common room linked by ground floor corridors. Blocks B and C are also linked by a first floor corridor.

Proposal

This is essentially an application for internal alterations together with alterations to the external appearance and general refurbishment of the buildings. Whilst the buildings are substantially already in existence it is proposed to construct small entrance lobby extensions to Blocks C and D together with a two storey extension to Block B. Two enclosed bin storage shelters are proposed, the existing pair of garages are to be extended to form a block of five garages and there would also be elevational treatment to all buildings insofar as some parts of walls are to be rendered, areas of brickwork are to be cleaned and there would be some alteration to doors and windows. Other works include the demolition of the links between the blocks. The works would result in an increase in the number of units of accommodation by 2 (i.e. from 24 to 26) and would provide 13 two bedroom flats and 13 one bedroom flats.

9/2005/0871/F Former Care Home
 20-68 Bass's Crescent
 Castle Gresley



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 SWADLINCOTE DE11 0AH

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There is currently very little car parking on the site, a pair of garages and a hard surfaces area to the front of them being located between Blocks B and E. As part of this proposal a new car parking area is to be formed with access from Arthur Street that would provide 26 car parking spaces. The proposed block of five garages would have access from Bass's Crescent.

Applicants' supporting information

Concern has been raised about a proposed garage block (Block F) to the front of existing properties, numbers 70 and 72 Bass's Crescent. Essentially this related to whether or not garages in a location alongside the vehicular access that also serves the existing two properties could lead to car parking in front of the garage doors that in turn could lead to obstruction for other users. The applicant has been requested to omit the garaging and to offer car parking places only in this location but has declined to do so. In support of providing garages the following information has been submitted by the applicant that is summarised as:

- The area in question is a common right of way and not parking space
- Objection based on a parking requirement is invalid as parking in this area is illegal on the established and existing joint right of way
- The property was purchased with full access rights over the area
- If the area were to be set aside for visitor parking in association with the apartments it would be unavailable for occasional usage by others
- There is a car park some 35m away
- There is no restriction to on-street car parking

Planning History

There is no planning history relating to the buildings the subject of this application but planning permission was granted for the erection of extensions at Block A under the Council's reference 9/2005/0594 and an outline application for the erection of three dwellings was granted on an adjoining site under reference 9/2005/0596.

Responses to Consultations

The County Highways Authority has no objection subject to parking being in place prior to occupation.

The Pollution Control Officer has no comments.

Responses to Publicity

Whilst no letters of representation have been received as a result of publicity given to this proposal, it is understood that occupants of properties nearby have expressed concerns about the part of the proposal that would replace the existing pair of garages and the store/boiler room with a block of five garages.

Development Plan Policies

The relevant policies are:

RSS8: N/A

Joint Structure Plan: Strategy Policy 1, Housing Policy 3, Transport Policy 10

Local Plan: Housing Policy 4, Transport Policy 6

Planning Considerations

The main issues central to the determination of this application are amenity and highway safety

Planning Assessment

These buildings are substantially the same as existing in terms of their mass. In terms of their overall appearance the proposal would result in them being upgraded and in the wider sense, the impact of the development on the locality is acceptable. There is therefore no objection to the principle of the proposal.

Most of the surrounding residential properties are separated from the application site by roads. There are, however, two bungalows at numbers 70 and 72 Bass's Crescent that physically adjoin Block E. Access to numbers 70 and 72 would be via the shared driveway that is already in place from Bass's Crescent. This access would also serve the proposed block of five garages.

Although these garages may form the contentious part of this proposal insofar as the occupants of the neighbouring properties are concerned, they replace a pair of garages and a building containing storage facilities and the boiler. In terms of the massing of the new garage block there is no objection.

The objection from nearby residents concerns the likelihood of parking in front of the garages that could in turn result in the access becoming blocked as the proposed garages would be close to the access onto Bass's Crescent. As set out above, the applicant has been requested to remove the garage block from the scheme and to provide parking spaces only at this location but has declined to do so. However, the County Highways Authority is satisfied with the arrangements for the garages close to the access and therefore it is considered that refusal of the application on this ground alone could not be sustained. A refusal on this ground is therefore considered unsustainable.

In order to promote choice in alternative forms of transport as required by PPG13, the applicant was also requested to provide lock up cycle storage. Again, however, this request has been rejected but it is considered that refusal could not be sustained for this reason since public transport and shops within walking distance result in some alternative choice to car usage being available.

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. 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 and alteration of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority.

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

3. Prior to occupation of the first unit of the accommodation hereby permitted, the car parking spaces and manoeuvring areas shall be laid out as shown on the submitted plan FR 3423 02 Rev C and the car park shall be hard surfaced with a solid bound material for the first 5m into the site from the highway boundary. Thereafter the car parking/manoeuvring areas shall be retained for that purpose and be kept free of obstruction to its designated use.

Reason: In the interests of highway safety.

4. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

5. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

6. Further to condition 5 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.

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

7. 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.

Informatives:

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

The proposed development lies within a coal mining area. In the circumstances Applicants should take account of any coal mining related hazards to stability in their proposals.

Developers must also seek permission from the Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at www.coal.gov.uk.

15/11/2005

Item 1.3**Reg. No.** 9/2005/1095/F**Applicant:**

Mr S Taylor
Coppice Farm
Ashby Road
Melbourne
Derby

Agent:

Mr. Eric J. Lee
Pennside
Penn Lane
Melbourne
Derbyshire
DE73 1EP

Proposal: The erection of an office and training facility at Melbourne
Hotel 2 Derby Road Melbourne Derby

Ward: Melbourne

Valid Date: 20/09/2005

Site Description

The site is part of the car park for the Melbourne Hotel. Views across the site from Market Place presently include the incongruous modern telephone exchange building in Chapel Street. The Chapel Street boundary is defined by a traditional stone wall, about 1.2 m high, with a small section in the middle rising to about 1.8 m.

Proposal

The building would be sited at the end of the car park nearest to the telephone exchange. The existing car park access would be used and spaces would be allocated in the car park for the proposed offices and teaching room.

Applicant's Supporting Information

- a) The applicant lives in Melbourne and runs a business associated with the licence trade, of some 20 years standing. The company is highly respected and is well known to the licensing authorities for its training courses.
- b) The applicant has for many years conducted the administration of the company from home and has run courses in the Lamb Inn and Melbourne Community Centre.
- c) The applicant owns the Melbourne Hotel and car park. The hotel attracts a large local clientele and the car park is not used to capacity by customers.
- d) The site would occupy land not required or currently available for parking, and which is presently in poor repair.
- e) The applicant intends to run his training courses from the new building. The courses run on about six days per month. At other times the building would be used for offices for three staff.

9/2005/1095/F Melbourne Hotel
2 Derby Road
Melbourne



Scale 1:1250 Date Plotted 3/11/2005

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Plot centred at 428536 325343

9/2005/1095/F Melbourne Hotel
2 Derby Road
Melbourne



Responses to Consultations

The Parish Council has no objection.

Melbourne Civic Society states that the car park is often nearly full, used by visitors and shoppers. The Society does not object to the building provided compensatory parking is provided, along with re-surfacing of the existing car park.

Severn Trent Water Limited has no objection.

The Highway Authority comments that visibility at the access is severely substandard and recommends that the wall be lowered to 1 metre in height. As an alternative a new access with appropriate visibility splays is suggested.

Responses to Publicity

A neighbour opposite the site objects as follows:

- a) No 5 Chapel Street would be overshadowed and suffer loss of natural sunlight, exacerbated by being set at a lower level.
- b) The window in the gable end of the building would result in loss of privacy.
- c) The building would restrict the ability to widen Chapel Street, which is a very busy road.
- d) The building should be relocated to overcome the objections.

Development Plan Policies

The relevant policies are:

RSS8: Policy 3

Joint Structure Plan: General Development Strategy Policies 1 & 3, Transport Policy 1, Environment Policy 9 and Economy Policy 5

Local Plan: Employment Policy 5 and Environment Policy 12.

Planning Considerations

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

- The principle.
- Impact on the conservation area.
- Highway safety and parking.
- Residential amenity.

Planning Assessment

The site lies in the heart of a serviced village and is previously used land. Therefore it is acceptable as a matter of principle.

The building would be of traditional design and would result in a significant enhancement to this part of the conservation area, particularly when looking along Chapel Street from Market Place. The new building would replace the unsatisfactory views of the telephone exchange.

The recommendations of the Highway Authority would result in the boundary wall being lowered or realigned, either of which would have a detrimental impact on the appearance of the wall in its historic context. This would be harmful to the conservation area. Given the relatively small increase in traffic likely as a result of the development, it is considered that this is a case where the clear conservation benefits outweigh the desirability of achieving current visibility standards.

The Civic Society's requests for the car park are not reasonable as it is private land to which the public have no lawful access for general parking.

Whilst there is no supplementary planning guidance directly relevant to this commercial building the guidance for new houses makes provision for standards to be relaxed in historic streets. No 5 Chapel Street is some 8 m from the proposed nearest part of the building. Housing supplementary planning guidance normally seeks 12 m from a main window to a two-storey gable. However in this case it is highly desirable to maintain a building hard against the boundary, as this is appropriate to the historic pattern of development. Furthermore the building has low eaves and the part nearest to No 5 appears fundamentally as a single storey structure (although it would utilise the roof space for accommodation). Because No 5 has windows directly on the street frontage there would be no material worsening of the privacy situation for the occupier. On balance the situation is acceptable.

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. No part of the development shall be carried out until samples of the external materials to be used in the development (including hard surfaces) have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the conservation area.
3. Large scale drawings to a minimum Scale of 1:10 of eaves and verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves and verges and 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.
4. 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.
Reason: In the interests of the appearance of the building(s) and the character of the area.

5. 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 building(s) and the character of the area.

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

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

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

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

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

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

9. A sample panel of pointed brickwork/stonework 1 metre 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 building and the locality generally.

10. 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 levels.

Reason: To protect the amenities of adjoining properties and the locality generally.

11. Prior to the first use of the development the car parking spaces shall be laid out in accordance with the application drawing, provided with 6m manoeuvring space behind and thereafter retained free of any impediment to their designated use.

Reason: In the interests of highway safety.

12. Before development begins a specification of works to reinstate the boundary wall to be disturbed by the development shall be submitted and approved in writing by the Local Planning Authority and the approved works shall be completed in accordance therewith before the development is first occupied.

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

13. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing received 18 October 2005.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

15/11/2005

Item 1.4**Reg. No.** 9/2005/1135/F**Applicant:**

Ms C Leach
2 Main Street
Hilton
Derbyshire
DE65 5FF

Agent:

Philip C Anthony
40 Uttoxeter Road
Mickleover
Derby
DE39GE

Proposal: The retention of a new door and front windows at 46 Main Street Hilton Derby

Ward: Hilton

Valid Date: 23/09/2005

The application is brought to Committee at the request of Councillor Mrs Walton.

Site Description

No 46 Main Street is situated in a prominent position fronting onto the junction of Mill Lane and Main Street, the main road through the village of Hilton. The property is situated at the end of a group of terraced buildings but orientated with the gable end forming the main elevation fronting onto the street. Main Street itself comprises of a mix of residential properties and local facilities including small-scale retail uses and public houses. No 46 Main Street is used as a hairdresser's salon.

Proposal

The proposal is to install a new shop front on both ground and first floor and a new entrance door. Alterations have already been carried out with the installation of a single glazed window stretching from ground to first floor level and alterations to the doorway which have been the subject of an enforcement enquiry and a subsequent planning application (9/2005/0735/F).

Applicants' supporting information

The applicant has amended the scheme to incorporate vertical glazing bars and a rendered middle section to break up the existing expanse of window whilst maintaining the vertical emphasis of the frontage.

Planning History

The property has been used as a hairdressing salon for several years. An application for the use of the first floor for the sale of children's leisurewear was permitted in 1985. A previous application for the retention of the window and doorway in their present form (9/2005/0735/F) was refused in August 2005.

9/2005/1135/F 46 Main St

Hilton

Date
House

The
King's
Head
(PH)

Car Park

MAIN STREET

54.3m

55.8m

TO HATTON

Longridge
Cottage

Playing Field

Hilton House
Hotel

Car Park

Wakelyn Close

HILTON

MAIN ST PO

TO EGGINTON RD/
DERBY RD

57.6m

LB

Car
Park

TCB

THE SITE

MILL LANE

Mill
Farm

DOVE RISE

FIELD

BACK L



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Date Plotted 3/11/2005
Scale 1:1250

Licence No LA 079375



It was considered that the windows, in their installed state, are out of character with the surrounding buildings and area to the detriment of the character of the street scene. The current application seeks to address these issues.

Responses to Consultations

The Parish Council object to the application due to lack of information about the proposed details and that the window in its present form is not in keeping with adjacent properties.

Councillor Mrs Walton objects on the grounds that the proposed door and upper window in particular are totally out of keeping with the street scene.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

RSS8: None

Joint Structure Plan: None

Local Plan: None

Planning Considerations

The main issues central to the determination of this application are the impact of the proposed alterations on the character of the surrounding area.

Planning Assessment

Main Street is characterised by properties with generally small scale fenestration and a greater proportion of solid to void interrupted only by a few ground floor shop front windows of a larger scale. No 46 Main Street, unlike the surrounding properties, is situated with the gable end fronting onto Main Street forming a prominent elevation within the streetscene.

The previous planning application proposed retaining the two-storey window divided centrally by a large advertising sign. The current application proposed the division of the window into two separate windows with an advertising sign between further divided by a single vertical glazing bar in the centre of each window. The scheme has subsequently been amended to extend the height of the ground floor window and reduce the area of signage with the windows further divided into three sections by two vertical glazing bars in order to give a vertical emphasis to this prominent frontage. It is considered that the introduction of horizontal glazing bars would reduce this vertical emphasis giving the gable end a more squat appearance. Additional information has been received from the agent since formal consultation confirming that the front elevation would be white rendered with a flush white render panel between the ground floor and upper window and with the advertising signage on top. The door would be a solid wood construction with a glazed safety panel. The fenestration in this way is a different treatment to the rest of the terrace.

However, the amended scheme would be of more sympathetic proportions and give the building a more interesting contemporary appearance in this prominent location. The vertical emphasis of the window together with the separation of the windows on each floor would make it difficult to argue that this modern interpretation of the gable end would be so harmful to the character of the locality to warrant refusal of this application.

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

Recommendation

GRANT permission subject to 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 SK No. 190905/1 Rev B received on 1 November 2005.

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

3. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of 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.

15/11/2005

Item 1.5**Reg. No.** 9/2005/1205/FH**Applicant:**

Mr Mrs A R Wood
 52a The Wharf
 Shardlow
 Derby
 DE722HG

Agent:

Kent Porter Warren
 28 Great Central Street
 Leicester
 LE14JT

Proposal: The installation of automated timber entrance gates at 52a
 The Wharf Shardlow Derby

Ward: Aston

Valid Date: 10/10/2005

The application is brought to Committee at the request of Councillor Atkin.

Site Description

The site is a converted former industrial building, Grade II listed. There is a boundary wall to the street frontage with an opening for vehicular access.

Proposal

The proposed gates would be the same height as the existing brick wall, to a simple vertical boarded design.

Planning History

Planning permission and listed building consent to convert and extend the building were granted in 1988 (9/0888/516 & 510). The wall was permitted in 1990 (9/0390/1273/L & 1274/F).

Responses to Consultations

The Parish Council objects on the grounds that the gates may cause problems in an area of limited parking, e.g. with deliveries, visitors etc.

The Highway Authority has no objection.

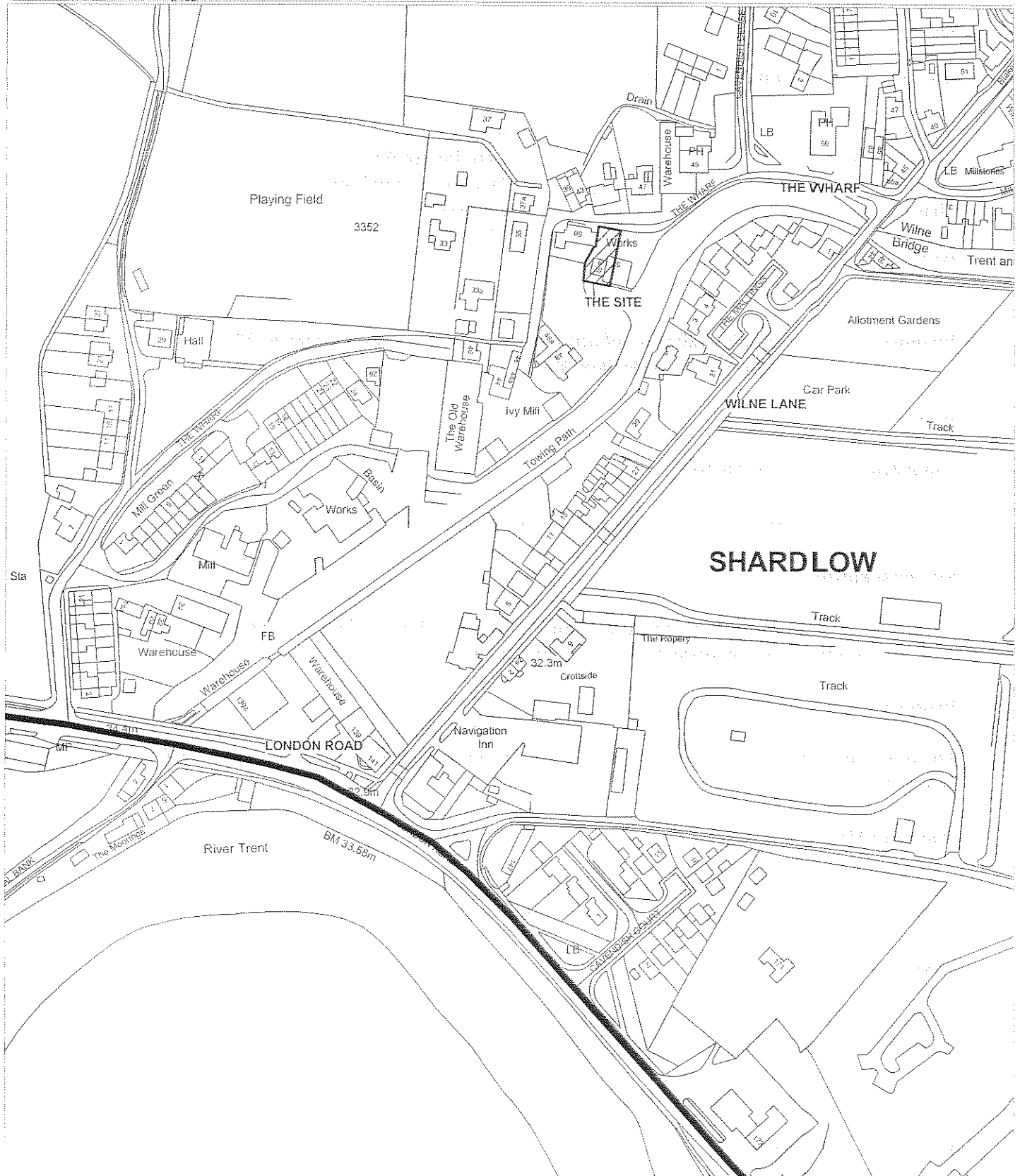
Responses to Publicity

A neighbour objects as follows:

- a) The gates would result in visitors parking in the highway, where the situation is already almost impossible. The gates are not necessary for privacy.

9/2005/1205/FH & 9/2005/1206/L 52a The Wharf
Shardlow

2460



Scale 1:2500 Date Plotted 3/11/2005

Plot centred at 428536 325343

9/2005/1205/FH & 9/2005/1206/L 52a The
Shardlow



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- b) There would be overlooking to neighbours.
- c) The garage has been flooded within the last 10 years.

Development Plan Policies

The relevant policies are:

Joint Structure Plan: Environment Policies 9 & 10

Local Plan: Environment Policies 12 & 13

Planning Considerations

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

- The impact on the character of the listed building and the conservation area.
- Highway safety.

Planning Assessment

Proposed alterations to the building are subject to the listed building consent application.

The proposed gates would be in keeping with the host building and the character of the conservation area.

Whilst neighbours raise issues of privacy and flooding these are not capable of being taken into account in the context of this application.

On the advice of the Highway Authority there would be no demonstrable 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 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. Large scale drawings to a minimum Scale of 1:10 of joinery details of the gates, including horizontal and vertical sections and decorative finish, shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The gates shall be constructed and decorated in accordance with the approved drawings.

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

15/11/2005

Item 1.6**Reg. No.** 9/2005/1206/L**Applicant:**

Mr Mrs A R Wood
52a The Wharf
Shardlow
Derby
DE722HG

Agent:

Kent Porter Warren
28 Great Central Street
Leicester
LE14JT

Proposal:

The formation of additional ground floor living accommodation, a roof terrace and enlarged window openings at 52a The Wharf Shardlow Derby

Ward:**Aston****Valid Date:****10/10/2005**

The application is brought to Committee at the request of Councillor Atkin.

Site Description

The site is a converted former industrial building, Grade II listed. The building has been in residential use for a number of years, following conversion and extension. The extension is a two-storey structure to the side of the building. It has a flat roof with a parapet, interrupted in part by railings.

Proposal

The works relate to alterations to the listed building, comprising the following elements:

- The insertion of a new glazed French door in the rear elevation of the extension.
- The enlargement of an existing window opening in the gable of the original building. (This would facilitate access to the flat roof of the extension).
- The deepening of a first floor corner window in the extension.
- The replacement of timber doors in the front elevation of the original building with a glazed screen.
- The laying of a timber floor over the existing brick pavior floor on the ground floor.

Planning History

Planning permission and listed building consent to convert and extend the building were granted in 1988 (9/0888/516 & 510). The wall was permitted in 1990 (9/0390/1273/L & 1274/F).

Responses to Consultations

The Parish Council objects on the grounds that the proposal would be out of keeping with area and there would be privacy issues for neighbours. The Parish Council also comments that the garage area flooded in November 2000.

The Design and Conservation Officer has no objection in principle.

Responses to Publicity

Three neighbours object as follows:

- d) The gates would result in visitors parking in the highway, where the situation is already almost impossible. The gates are not necessary for privacy.
- e) The proposed enlargement of the windows would be out of character with the historic warehouse.
- f) The proposed roof terrace would not be in keeping with conservation area.
- g) The roof terrace and enlarged first floor windows would result in invasion of the privacy of the three adjacent properties. It is understood that the previous planning permission stated that the roof should not be used as a terrace.
- h) The garage has been flooded within the last 10 years.
- i) There would be increased noise and disturbance from the roof terrace.

Development Plan Policies

The relevant policies are:

Joint Structure Plan: Environment Policy 10

Local Plan: Environment Policy 13

Planning Considerations

The main issue central to the determination of this application is the impact on the character of the listed building.

Planning Assessment

Whilst objectors raise issues of privacy and flooding the local planning authority is constrained to considering issues relating to the impact on the listed building only. The issue of highway safety is addressed in the report 9/2005/1205/F.

The proposed alterations would be in keeping with the character of the listed building, and therefore in accord with relevant policies.

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 works to which this consent relates shall be begun before the expiration of five years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.

2. 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 and the decorative finish shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery gates shall be constructed and decorated in accordance with the approved drawings and specifications.

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

15/11/2005

Item 1.7**Reg. No.** 9/2005/1213/U**Applicant:**

Mr S J Parker & Mrs P Rai
 140 Pack Horse Road
 Melbourne
 Derby
 DE73 1BZ

Agent:

Mr S J Parker & Mrs P Rai
 140 Pack Horse Road
 Melbourne
 Derby
 DE73 1BZ

Proposal: The part change of use of a residential dwelling to use as an office at 140 Pack Horse Road Melbourne Derby

Ward: Melbourne

Valid Date: 12/10/2005

Site Description

The property is semi-detached house situated towards the northern end of Packhorse Road close to the edge of the village.

Proposal

The applicant seeks to use part of the dwelling as an office. The application states that this would amount to 29 sq m of the existing total floor space, which is 85 sq m. The remainder would continue in residential use. Working hours are specified as 8.30 am to 5.30 pm Monday to Friday. A total of five staff would transfer from existing premises in Castle Lane Industrial Estate. Space to park four cars in the rear garden would be provided, using the existing access from Nettlefold Crescent.

Applicant's Supporting Information

The applicant has confirmed the following:

- a) One downstairs room and one upstairs room would be used as offices, with another for mixed domestic/office storage. The office use is administrative and visitors would be rare (2–3 occasions per year on past experience).
- b) The remainder of the building would be lived in by a member of staff.

Responses to Consultations

The Parish Council objects as follows:

- a) A precedent would be set for commercial intrusion into the locality.

9/2005/1213/U 140 Pack Horse Road
Melbourne



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Date Plotted 3/11/2005
Scale 1:2000

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- b) The parking of for cars would have an adverse impact on the lives of residents.
- c) The access is close to a junction and is unsafe.
- d) The applicant already has suitable premises in a commercial area.

The Highway Authority has no objection subject to modifications to the access to provide pedestrian visibility splays.

Melbourne Civic Society objects as follows:

- a) The site is in a residential are close to a busy road junction where many school children cross.
- b) The use is not appropriate.
- c) The use of the rear garden for parking would be harmful to amenity.

Responses to Publicity

8 letters have been received from neighbours objecting as follows:

- a) This residential area is not an appropriate place for business use.
- b) Additional traffic movements would cause danger, particularly as there is a bus stop outside the property.
- c) The property appears to be in business use already and the garden is being prepared for car parking.
- d) Because of the lack of screening between the car parking area and the adjoining neighbour there would be loss of privacy and increased noise and disturbance.
- e) There are elderly residents in the locality, who should not be subject to worry and change at this time of life.

Development Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 1 and Economy Policy 5
Local Plan: Employment Policy 5

Planning Considerations

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

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

Planning Assessment

The relevant development plan policies are generally supportive of business use in primarily residential areas, subject to there being no harm to local amenities or the environment. Accordingly the proposal is capable of being acceptable in principle.

The proposal involves administrative office use only. This is unlikely to generate undue disturbance for local residents. The proposed parking layout could result in some impact on the occupiers of No 138, as there is presently a low boundary screen. A condition requiring fencing along the boundary would adequately safeguard the amenities of the neighbours.

Apart from the parking of up to four cars during normal working hours there would be little outward manifestation of the use and the impact on the character of the area would thus be minimal.

On the advice of the Highway Authority there would be no demonstrable 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 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. No more than 29 sq m of the building shall be used for office purposes.
Reason: To ensure that the scale of the use is compatible with the surrounding residential area.
3. Before the use begins a 1.8 metre high fence shall erected along the southern boundary to the rear garden in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.
Reason: To prevent loss of privacy to the occupiers of the adjoining dwelling.
4. Before the use commences the vehicular access shall be improved in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of highway safety.
5. The parking and manoeuvring space shown on the submitted plan shall be provided prior to the commencement of the use and shall thereafter be retained as such.
Reason: In the interests of highway safety.

15/11/2005

Item 2.1**Reg. No.** 9/2005/0191/M**Applicant:**

Elbar Services Ltd
Foston Farm Hay Lane
Foston
Derby
DE65 5PJ

Agent:

Alan Taylor
Talbot Associates Limited
Talbot House
Grange Close
Ticknall
Derbyshire
DE737LF

Proposal: Outline application (external appearance reserved matter) for the erection of a cold store at Foston Farm Hay Lane Foston Derby

Ward: North West

Valid Date: 18/02/2005

Site Description

The site lies immediately to the east of the existing range of buildings at the Elbar Worldwide site (formerly Foston Farm Produce). The land is flat and security fencing encloses the whole site. A public footpath follows the line of the north boundary and trees have been planted along this boundary.

There are dwellings on Hay Lane that abut the highway used to access the site, Lawn House immediately adjoins the site of the factory. Hay Lane Farm lies to the north of the site on higher ground and has a view towards the site at a distance of about 420 metres.

Proposal

The proposal is as described above and comprises a building of some 3690sq.m (39720sq.ft.). It would be some 90 metres long x 34 metres wide with an eaves height of 10 metres (14 metres to the ridge). At a lower level, a 7.0 metre x 90 metre lean-to is proposed that would house offices, a canteen and a plant room.

Applicants' supporting information

The applicants have stated that the current method of operation is that goods are stored in other parts of the country and at times in Europe. The idea is that all goods would be stored at the site to give the company control over all aspects of its business. The works undertaken at the Foston site involve receiving the goods, repackaging them and then distributing the product to a series of major food retailers. Under the current operation lorries are bringing goods from the remote stores to Foston, if the application were granted then these movements could be reduced.

9/2005/0191/M Foston Farm

Hay Lane

Foston

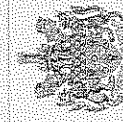


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Thus the goods would be handled once into the Foston cold store, then directly to the customer delivered by the company.

The applicants have faith in the traffic impact assessment and as it reflects their current business. The business now conducted at Foston employs far fewer people and the movements to and from the site are much reduced.

The deliveries are booked in the day before they are due and do not occur before 0700 nor after 1800 during the week. There is no desire to alter the operating hours that were imposed on the factory in the 1980's.

In support of the application the applicants have submitted a noise impact assessment and details of the proposed refrigeration equipment and a traffic impact assessment.

The noise assessment identifies the main receptor dwellings for noise emissions from the proposed building. It concludes that the noise emissions from the operation of the building would not cause a nuisance to the occupiers of the dwellings. Two type of compressor are proposed for the new building, one slightly quieter than the other.

The traffic impact assessment uses as its base point a survey that was undertaken in support of a previous application for the expansion of the factory. It concludes that the operations that took place when the factory was in full food production were significantly higher than would be the case if this application were to be permitted. It argues that there would be a slight increase in the overall movements to and from the site compared to current operations but fewer movements than when the site was operating in its previous form.

All the documents are available for inspection on the file.

In the light of the objections received, below, the applicants have been asked to comments on the points raised by the objectors as there are issues that cannot be addressed by officers. The comments are as follows: -

SITE OPERATIONS AND USE

The building would still be in keeping with the adjoining sites in Woodyard Lane and the Hangar on the old main road, it would not change the visual impact on Hay Lane as stated and hardly change the semi rural area as stated.

The company agrees that the food industry, as many industries, work on a 24/7 basis but not all companies work 24/7 as stated; even the supermarkets do not work all of these hours. The majority of factories do not work on the 24/7 basis. The objectors cannot know that the company would not be able to work within the hours and still remain in business unless they possess some inside knowledge that the company is unaware of. The company does not need an extension of working hours as the site is well established and tightly regulated by previous planning permissions.

The processing and packing the company undertakes works well within the permitted hours of operation of the site and over nearly 2 years there have been no complaints or objections to the company being on the site until it expressed a wish to expand its business which it needs to do and then the objections started.

The company has submitted a detailed and professional report with regards to HGV movements and in its opinion these would not exceed the number of HGV's using Hay Lane when the site was operated previously.

The site was never a green belt, it was a disused farm originally which would surely now be termed as a commercial site.

NOISE POLLUTION

If the noise is such a problem why have there been no complaints about the business until now?

The issue of noise has been fully addressed with specific site surveys forwarded to the EHO; it has been established that there will be no detriment to local residents on that basis.

It should be noted that the nitrogen tunnel that was a primary but unsubstantiated cause of complaints to the previous occupiers from the neighbouring dwelling was removed in its entirety by ELBAR when they occupied the site as other freezing methods are now used.

The new store will have the lowest noise compressors available, they will be housed in the recommended housing and sited at the furthest point away from Hay Lane. It would be doubtful whether these would be heard on Hay Lane especially above the vehicle noise coming from the A50 24 hours per day.

HGV lorries have used Hay Lane for many years we have already stated that there will be no more vehicle movements than the previous company had, why do they choose to object now and not over the past 2 years?

The company carried out the noise impact study in line with guidelines for this type of development; it applies to the site where the development will take place. It is not aware of any lorries parking in Hay Lane, this may have happened previously but again why object and complain now?

TRAFFIC IMPACT

As far as the company is aware Hay Lane has always been used for all types of vehicles, there has never been a restriction for any vehicles using it. Of course the traffic was lighter when the previous occupiers ceased trading.

A professional traffic analysis has been undertaken and submitted to the LPA, this includes a continuing restriction on operating hours and the company will have no problems in adhering to these hours.

Hay Lane has already been the subject of improvements to carry the previous (higher) levels of traffic approved a few years ago.

I work in the office immediately facing onto Hay Lane and I can assure you that there is not an endless stream of lorries using the lane, I still see horses, walkers etc using the lane in a normal way at all times of the day. The lane is perfectly wide enough for 2 vehicles to pass, as are most lanes in South Derbyshire so a horse could pass quite easily. I am not aware that any lorries have blocked residential properties again the question arises; why have no complaints of this nature been made as the objectors were always very quick to complain about the previous owners?

I would be interested to know how many emergency vehicles have used the lane in the past 2 years and extremely interested to know how many have been held up by HGV's attending our site...I would suggest none.

Who has suggested that the vehicle movements would be 100-200 per day, like a lot of this statement there is nothing to substantiate this again I feel it is a complete fabrication

OTHER ISSUES

The lighting would be for security only and adequate to carry out the operation. Modest lighting would not affect the night sky when located properly and in context with the surroundings of the area.

How do the objectors know that the staff will not come from the local area? Have they got a crystal ball indicated this? How far does the local area go? The company would endeavour to use local labour, as it makes no sense to employ staff from distant locations.

This is not a creeping industrial development, the company needs this cold store to allow our existing business to expand, the company is somewhat held back by having stock in various locations in the UK and in Europe. The company find itself planning stock to come in to be processed and then planning it to go to outside stores to be held until sold. A large amount of the stock will be long term storage not goods that are in and out daily.

The normal way of disposing of waste from industrial premises is in a skip supplied and emptied by a registered waste company. There would be very little additional waste created by this new store.

How do the objectors know what is being processed on site? Have they got even more inside info on us that the company do not know about? The company operate a fully licensed food processing and packing plant that is registered by the government. Its licence number is DY0002. The company employs staff solely as production operatives. The nature of the work is different to Foston Farm it is processing a wider range of products than just poultry the majority of which are sold frozen to UK supermarkets and food service customers.

There is no pretext involved the reason the company bought the site was to expand its business as ELBAR, which has been successful in establishing itself as a major force in the UK food supply chain. The new store will allow it to expand and have more control over its existing business. The store will not be operated as a new business

There are no vehicles registered at the site as the company does not run its own fleet, the company contract out all of its transport as many companies now do, some customers like to buy at factory gate prices and use their own delivery vehicles to collect from suppliers on the return journey to their depot.

The reason the company entered zero on the floor space and employees was because there are no employees and no buildings on the area the company would like to build the new store. However, the company currently has a store on site of about 10,000 sq foot that is totally inadequate for its business to operate. The company also have about 25,000 sq ft of factory and storage buildings on the site.

The company currently employs 3 Directors, 6 sales staff, 8 admin staff and 12 production staff. The new store will see an increase of 2 admin staff and 8 production staff.

The company is not intending to rent out space as it needs to establish its own self contained licensed and bonded cold store facility on site to allow it to conduct its business the way the company would like and have more control over the products held in the store.

It is unsure whether 60,000 pallets is a mistake or a deliberate and blatant untruth by the complainants, however, the true figure should be between 5,000 and 6,000 pallets the number will depend on which racking style the company choose to use.

How can the objectors know the current turnover of the business? But more importantly how do they know the value of stocks and that the company do or don't need this storage facility; they seem to make a lot of assumptions in the whole of these objections.

Where on earth have they had the idea from that the company is trying to sell the business to a logistics company? Again they must know an awful lot more about the business than the company do.

It is true there is an unauthorised roadway but this was part of the site when the company purchased it from the liquidators of Foston Farm, the company would intend this to be part of the cold store.

Planning History

The objectors made reference to the fact that the premises should not have been allowed to develop here in the first place. The factory was started in the late 1990's processing turkeys that were produced on local farms. It then moved to importing and cutting of chickens imported from all over the country and Europe.

Once established the expansion of the premises was acceptable under current policy subject to no adverse environmental or traffic impacts. Under the terms of this policy the factory expanded and some of the noise issues that arose from the operation of the original premises were addressed. The factory continued to grow in the 1990's including the expansion of the premises to the east to its current boundaries. The original operators sold the premises in 1999.

The then new owners sought to establish 24-hour working and the formation of a new access to the site from Woodyard Lane. This was refused permission in 2002 but the roadway had been put in place and is the subject of enforcement action still outstanding. Shortly after this, the site ceased operations and the factory was empty until the current owners purchased the site and started the current business.

The applicants have also submitted an application to extend the packaging store at the site and this is subject to separate consideration (9/2005/0927 refers).

Responses to Consultations

Foston and Scropton Parish Council strongly objects to the development for the following reasons: -

- a) The development encroaches into green belt land and is contrary to Structure and Local Plan policies.
- b) This is not an agricultural process, but the collection and distribution of frozen goods and thus more suited to a location on Dove Valley Park.
- c) Residential development on green and brown field site has been refused
- d) No jobs will be created in the locality
- e) The Lane is too narrow and it is disputed that the land has been widened and strengthened as stated in the traffic report. Additional traffic would be generated by the use with continental lorries parking on the local roads awaiting the factory to open. The Parish Council has written to the County Highway Authority requesting information on the suitability of the lane to support such an operation.
- f) Lorries already use the village as a short cut to Dove Valley Park and as such this type of abuse will increase.
- g) Noise levels are a concern and there is inconsistent data in the noise assessment.
- h) Permission has been refused at this site in the past 2/3 years.

Overall, it is considered that the development has a detrimental impact on the village.

The County Highway Authority has carefully assessed the Traffic Impact Assessment (TIA) that accompanied the application. It accepts that on the information submitted that the level of traffic is probably acceptable for the type of road to be used for the access to the site. However, the difficulty arises when the TIA addresses the capacity of the cold store. The assumptions made in the TIA are based on an 8-week turnaround of the produce stored in the building. There is nothing in the TIA that deals with this situation where the turnover increases with a subsequent increase in the amount of HGV traffic using the access road. The County Highway Authority is concerned that if the current application were accepted on the basis of the submitted TIA, then it would be difficult to impose and enforce a planning condition/Section 106 Agreement that would limit the amount of HGV traffic using Hay Lane. On these grounds the County Highway Authority recommends that the application should be refused. It has stated that it would be willing to consider an alternative means of access to the site, from Woodyard Lane, to facilitate the expansion of the business (*see the comments on this in 'Planning Considerations' below*).

The Environmental Protection Manager has stated that the site is close to a dwelling where previous complaints have been received. Indeed the Environmental Protection Manager has received contact from the neighbour about this proposal. Having examined the proposal he is satisfied that subject to conditions the storage building could operate without noise affecting the nearest residents. Conditions are also recommended to help to minimise the impact of reversing horns and forklift truck operations.

Responses to Publicity

A total of 8 letters from 5 households have been received as a result of the publicity arising from this application. The objections can be summarised as follows: -

- a) The history of the site – there is an unauthorised road within the site that was refused retrospective planning permission in 2002. The road remains in place and is subject to enforcement action.

- b) The impact of the building and its use – this would be a huge building not in keeping with the rural locality. The area is suffering from a blight of creeping industrial development spoiling the rural nature of the area contrary to the policies of the Structure and Local Plans. Development should be limited to specific industrial areas and allow areas such as Hay Lane to remain rural with predominantly agricultural and residential areas. It is inappropriate to use agricultural land for industrial purposes and the increased pallet space would necessitate increased HGV traffic along the lane. The use of the site should never have been allowed in the first place all those years ago. This is not a suitable use for a ‘green belt’ area when there is a perfectly suitable industrial site not far away from the site. This is a substantial increase in the floor space at the site. The food industry operates on a 24/7 basis and it is suggested that the site would not be able to operate in the hours applying at this time and remain in business; the applicant knew this when he bought the site back.
- c) Noise pollution – residents state that noise the existing plant has caused a loss of amenity and a larger building with more compressors is going to make the noise worse and be intolerable. There is also the noise and vibration within dwellings suffered as a result of large lorries using Hay Lane to access the site. It is alleged that dwellings have suffered structural damage as a result of this vibration. The 24-hour use of the premises would increase the noise from the site. The noise impact study only addresses a few of the properties in the locality and not all of them? All the dwellings were affected by the operations of the previous operators of the site. The study does not take into account the impact of the lorries parking on the Lane with their compressor motors running. It is hoped that action would be taken against the noise from the compressors if it proves that the estimates were inaccurate as these will be operating 24/7 every day of the year. This would result in justifiable complaints to the Environmental Protection Unit.
- d) Traffic impacts – Hay Lane is a rural road and the previous occupiers have turned it into an access to a major industrial building. This stopped when the previous users ceased trading. The proposed building will result in a large volume of articulated vehicles that will cause a problem to the local population and ensuing damage to the highway surface that only receives temporary repairs. When the factory ceased operation, it became possible to take young horses along the lane as part of their schooling, without the fear of being faced with large lorries – there are no escape routes when faced with these lorries. Continental lorries are parking on Hay Lane awaiting the opening of the factory sometime blocking the access to dwellings. This is not acceptable. The width of the lane is insufficient to allow these lorries and other traffic, especially emergency vehicles to pass each other. It is hard to believe the estimates in the traffic impact statement relating to the widening of Hay Lane, the amount of traffic to be generated and there is a suggestion that the actual movements to the site would be more in the region of 100 – 200 per day. The County Highway Authority has previously stated that the lane is unsuited to take additional lorry movements and has in the past recommended refusal of permission on this basis.
- e) The potential impact of lights on the site at night would have on the character of the area and on the night sky.
- f) The proposed increase of 10 employees would not be sourced locally so there is no benefit to the local area. There are no benefits to the local community from this creeping industrial development

- g) Waste from the site is said to be disposed of via a skip, it is not clear how many times a week that this would need to be emptied – more traffic would be generated to threaten thoroughbred horses.
- h) There is no food processing taking place at the site as stated in the application form. This is contrary to the permission granted to Foston Farm Produce. The business is registered as a food broker (agents in food drink, and tobacco). This is a pretext to attempt to present some link to the previous permitted operations on the site. This is a new business in the new building and should not be considered as an expansion of the previous firm. The freezer will be used solely to store frozen product imported and exported from the site – the firm has no vehicles registered at the site – the business could be located on an established industrial area. This is demonstrated by the way in which the application form has been filled in. In response to the questions about existing floor space the answer is 0 as is the case when referring to the number of existing employees – again the answer is 0. Thus how can this be considered as an application for the expansion of an existing business? It is requested that this application be refused on this basis as well as the other points referred to above.
- i) The applicant is clearly intending to rent out space to external companies, as the turnover of Elbar Worldwide would not seem to justify a 60,000-pallet space warehouse. It is asserted that the plan is to sell the business on to a logistics company.

Development Plan Policies

The relevant policies are:

RSS8: 2, 3, 6 & 24.

Joint Structure Plan: General Development Strategy Policy 4, Economy Policy 4.

Local Plan: Environment Policy 1, Employment Policy 1.

Planning Considerations

Notwithstanding the issues raised, the main issues central to the determination of this application are:

- The Development Plan.
- The impact on the countryside.
- Highway Issues.

Planning Assessment

The development plan is the crucial issue. The site is not within any green belt. The establishment of a new business in the countryside, as alleged by the Parish Council and objectors, would be contrary to the provisions of the Development Plan. This matter has been put to the applicants and their response is set out in the applicants supporting information above. The essence of their response is that this is very much an expansion of the established business on the site. They have been on site for almost 2 years and the business has grown to a point where the site and its existing buildings are no longer capable of accommodating its needs. The expansion building would allow the business to consolidate its storage needs in one location. It is considered that the proposal is for the expansion of an existing business and as such should be considered under the development plan policies for business expansion. Accordingly, the proposal should be judged on the basis of its impact on the character and appearance of the

locality, residential amenity and an assessment as to whether it would cause environmental or traffic problems.

The impact on the character of the area

The building would be a significant addition to the buildings on the site. It would be sited to the east of the existing buildings but this is consistent with how the site has evolved over the years. The whole site is apparent from the public footpath that follows the northern boundary of the site and there are glimpses of it from Hay Lane driving south and from the windows of Hay Lane Farm (420 metres to the north). The factory and before it the farm, was always visible from the footpath. The fact it is visible from the path is not in itself a reason to assert that there is a visual intrusion into the countryside. The glimpses from the road and the distant views from Hay Lane Farm are not significant and from this direction the factory lies in a slight hollow in the landscape and the buildings are seen against a background of trees and other substantial buildings. The main issue here is whether the additional building would amount to a serious intrusion into the rural landscape. Given the nature of the proposed location for the building as described above its impact is considered to be marginal and on its own is not a sustainable reason for refusal.

Residential Amenity

The nearest dwelling is Lawn Farm that has a curtilage and some outbuildings that directly abut the factory site. Its main windows face south but there are windows that look towards the application site at a distance of about 85 metres. Between the buildings on the site and the house, the neighbour has planted a significant number of trees. The issues for consideration are whether the proposed building would have a significant detrimental impact on the amenities of the residents of this dwelling in terms of visual intrusion and noise from fixed plant and vehicles necessary to service the building (lorries and fork lift trucks). The trees referred to above are now some 5 – 6 metres high and obscure views from any ground floor rooms of the buildings on this site, it is likely the ridge of the proposed building would be obscured by these trees, if not immediately, then certainly in the near future. Thus it is considered that the building could be located at the site without detriment to the visual amenity of the occupiers of the dwelling by virtue of the distance separating the two and the intervening screening provided by the trees.

The fixed plant at the site would be accommodated within the fabric of the building at the furthest point from the dwelling. The assessment of the Environmental Protection Manager is that in this location there is unlikely to be any impact from the compressors particularly if the quieter models are used. A condition to this effect is recommended. There is concern that the on site traffic movements could cause disturbance if operations took place outside the hours of operation specified in the application. He recommends that conditions be attached to minimise the impact of noise from the site. In light of this it is considered that the amenities of the occupiers of the nearby dwelling are unlikely to be unduly affected by the proposal.

Highway and Traffic Issues

The County Highway Authority recommends that permission be refused on the grounds that the potential increased use of Hay Lane by heavy goods vehicles would be prejudicial to the safety and convenience of other road users given the rural nature of the lane. As the County Highway Authority has objected to the development on highway safety grounds the proposal is therefore considered to be contrary to Employment Policy 1 of the adopted Local Plan and Economy Policy 4 of the adopted Structure Plan. Both these policies allow for the expansion of existing businesses in rural locations subject to their being no adverse environmental and traffic impacts.

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

Recommendation

REFUSE permission for the following reason:

General Development Strategy Policy 4 and Economy Policy 4 of the adopted Derby and Derbyshire Structure Plan and Environment Policy 1 and Employment Policy 1 of the adopted South Derbyshire Local Plan make provision for the expansion of rural businesses subject to the proposal not being detrimental to the character of the locality or residential amenity and does not cause environmental or traffic problems. In this case the Local Planning Authority is aware of the contents of the Traffic Impact Assessment and the subsequent supporting information supplied by the applicant. However, the supporting information uses assumptions about the operation of the site and buildings that suggest the Heavy Goods Vehicles (HGV) use of the site would be less than that previously approved. However, controlling the operation of the premises to the level suggested in the TIA through the imposition of a planning condition or the acceptance of a unilateral undertaking would be unenforceable. In these circumstances the increase in the use of the rural lane by HGV's would not be controllable and by virtue of the substantial increase in the available floor space at the site, the potential for conflict with other road users is greatly increased. Thus, the proposed cold store would result in potentially increased capacity and turnover of product and a consequential potential for the additional movement of heavy goods vehicles along Hay Lane. In view of the rural nature of Hay Lane it is considered that such movements are prejudicial to the safety and convenience of other road users and would be contrary to the above mentioned Development Plan policies.

