

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

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 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. SV denotes a Committee site visit case.

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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.

Item 1.1

Reg. No. 9/2008/0447/B

Applicant:

Mrs Dawn Twiggs
Thulston
Derby
DE72 3 EY

Agent:

David Bown
7 Ash View Close
Etwall
Derby
DE65 6JY

Proposal: Variation of condition 2 of 9/2006/0951/U to permit alterations to opening hours of salon at Rectory Cottage Park Lane Weston-on-trent Derby

Ward: Aston

Valid Date: 23/04/2008

Reason for committee determination

The application is referred to Committee at the request of Councillor Watson because local concern has been expressed about a particular issue.

Site Description

The site is a cottage attached to Rectory Farmhouse, a Grade II listed building. Access is via Park lane, into a stone surfaced car park. The property has been in its business use for over 12 months. The accommodation comprises two treatment rooms at first floor level and a waiting area and kitchen on the ground floor. The parking area is shared with another outbuilding (The Dairy) and access can also be gained to Rectory Farmhouse through it.

Proposal

The applicant seeks to extend the opening hours of the salon from:

- 0900 hrs – 1700 hrs (Monday to Friday) and 0900 hrs – 1200 hrs (Saturday); to
- 0900 hrs – 1800 hrs (Monday and Tuesday), 0900 hrs – 1900 hrs (Wednesday and Thursday) and 0900 hrs – 1600 hrs (Saturday).

Applicants' supporting information

- Typical vehicle movements would be, at most, no more than 8 vehicles per day. Typically there are 2-3 cars per day, as local clientele (around 30%) walk to the salon. The car park is large and clients never use Park Lane to park.
- A consultation typically lasts for around an hour.
- The car park is shared with the occupier of The Dairy. It is also used by visitors to that property and for any deliveries to The Dairy or Rectory Farm.



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- The lights belong to the property next door and have been adjusted upon request of a neighbour when the applicant first occupied the premises. The applicant gave an assurance that, if there were any more inconvenience with the lights, she would mediate between the owner and neighbour and adjust them accordingly.

Planning History

Permission was granted to commence the use in 2006 (9/2006/0951/U).

Responses to Consultations

The Parish Council comments that the opening of the salon has already compromised the safety by increased traffic, and the proposal would exacerbate the situation, particularly on darker nights in winter months.

The Highway Authority and Environmental Health Officer have no comment.

Responses to Publicity

Two neighbours object as follows:

- a) The business has generated noise from vehicles manoeuvring on the gravel drive. The proposal would exacerbate this.
- b) Access should be from the front of the building by way of a quiet surface car park.
- c) There have been instances when the existing hours of operation have been exceeded.
- d) 15 external lights, triggered by movement, cause light pollution. This would be exacerbated by the extension of hours.
- e) Park Lane is unsuitable for additional traffic and there would be danger to other road users.
- f) The use has an adverse impact on privacy and quality of life.
- g) The listed building should be protected.

Development Plan Policies

The relevant policies are:

RSS8: Policy 6

Local Plan: E5

Planning Considerations

The main issue central to the determination of this application is the impact of the proposal on residential amenity.

Planning Assessment

The principle of the use is established by the existing permission, based on the relevant development plan policies. These favour business development in rural and residential areas, subject to environmental and traffic considerations.

Given the duration of a typical consultation and the very limited extra traffic movements likely to be generated, and given the lack of objection from environmental health, there would be no demonstrable harm to residential amenity.

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 premises shall not be open to clients outside the following hours:

Monday and Tuesday 0900 - 1800 hours

Wednesday and Thursday 0900 - 1900 hours

Friday 0900 - 1700 hours

Saturday 0900 - 1600 hours.

The premises shall not be open to clients on Sundays or Bank Holidays.

Reason: In the interests of residential amenity.

Item **1.2**

Reg. No. **9/2008/0123/U**

Applicant:
Trustees Of Melbourne Heritage Fund

Agent:
Kay Davies
Fisher German
The Grange
80 Tamworth Road
Ashby De La Zouch
Leicestershire
LE65 2BN

Proposal: **Change of use of outbuildings to form new entrance
and extension to ground floor apartment at The Tithe
Barn Church Square Melbourne Derby**

Ward: **Melbourne**

Valid Date: **04/02/2008**

Reason for committee determination

The application is brought to Committee at the request of Councillor Harrison because local concern has been raised about a particular issue.

Site Description

The Tithe Barn is a Grade II* listed building situated immediately adjacent to the Grade I listed Norman Parish Church. Access to the existing entrance door is gained across the forecourt to the church. The grounds and outbuildings to the Dower House, a private residence, abut the building to the west. Access to the attached outbuilding, the subject of this application, is gained via the grounds of the adjacent Stone House.

The Tithe Barn comprises three distinct historic elements. The oldest (northern part) is of medieval origin, albeit displaying numerous alterations, the middle section is early 17th century and the two-storey (southern) section closest to Melbourne Pool appears to be early 19th century. A lean-to structure post-dates and abuts the latter section. It is presently used as storage for the Stone House. There is presently no access to the Tithe Barn via the lean-to.

Proposal

The applicant seeks to alter and convert the lean-to into part of the living accommodation, two apartments, previously permitted in the Tithe Barn (see Planning History below). In particular, by forming a new opening between the lean-to and the 19th century section of the Tithe Barn, the development would facilitate separate access to one of the apartments away from the existing main entrance opposite the front of the Parish Church. A glazed section of roof would be provided over the proposed new entrance hall.



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The plans also indicate alterations to the approved layout but these do not form part of the application.

Applicants' supporting information

- The application is made in association with the extant consents to convert the main section of the Tithe Barn to form two residential apartments.
- The proposal would remove the need to use the permitted access to the ground floor via the medieval section of the Tithe Barn. This would have the clear advantage of reducing traffic in the most sensitive section of the listed building.
- The conversion of the outbuilding would enable less subdivision of the main building to be undertaken.

Planning History

Planning permission 9/1189/0923/U and listed building consent 9/1189/0924/L were granted in January 1990. The consents allowed the formation of two flats and an exhibition hall and a gallery. The consents pre-date present day strict conservation guidance and practice, and lack conditional control over fine detail aspects of the conversion. Importantly no conditions were imposed requiring matters to be submitted for approval before the commencement of development. Furthermore there was no requirement to repair the medieval barn before the flats were brought into use. Work commenced soon after the grant of consent, with the laying of concrete floors at ground floor level, a staircase, the insertion of timber floors at first floor level and alterations to the main entrance door. In these circumstances the applicant is at liberty to complete the permitted scheme. Conditions limit occupation to caretaker's and visitors' accommodation.

Applications submitted in 2003 (9/2003/1013/L & 9/2003/1014/U) proposed encroachment by residential use into the mediaeval barn. They were refused for the heritage and residential amenity reasons. Subsequent applications (9/2005/1478/F and 9/2006/0414/L) were subject to strong objections from English Heritage and other national amenity bodies and were not determined.

Responses to Consultations

The Parish Council and Highway Authority have no objection.

Melbourne Civic Society does not object but makes the following comments:

- a) The Society supported the previous scheme (9/2005/1478) and notes that this application is similar, but that the earlier submission was superior in many respects.
- b) The building has had no maintenance for over 15 years and its deterioration is of concern. Thus there is a priority to bring the building into use.
- c) The Society is concerned over the non-determination of the previous scheme as this would have been more acceptable.
- d) The plans have inaccuracies.

English Heritage recommends that the application should be determined in accordance with national and local policy guidance, and on the basis of the Council's specialist conservation advice.

The Design and Conservation Officer considers that this part of the building is largely a 19th century addition (with a small 20th century garage infill) of simple form and lends itself to the proposed conversion. The connecting door passes through 18th century not 17th century fabric. Map evidence has been provided to English Heritage to substantiate this and they have accepted that a door-sized opening may be made through this wall.

The Council for British Archaeology has no objection in principle but notes that further delay will be disastrous for the building, as it has deteriorated significantly.

Responses to Publicity

The occupiers of the adjoining dwelling comment/object as follows:

- a) The application has far reaching implications for the wider development of the Tithe Barn.
- b) The proposal would add to the permitted floorspace by 32 sq m, which would lead to expanded use of the ground floor flat as permanent residential accommodation, which was considered inappropriate in the permitted scheme. This would much more adversely affect the living conditions of the occupiers of the Dower House.
- c) If the application were to be approved, the first floor apartment (which should be for occasional use only) would become an extension of the lower apartment, increasing the impact on the Dower House.
- d) Whilst there would be a new entrance, the existing entrance would still be required to gain entry to the first floor flat.
- e) The occupiers of the Dower House would be prepared to buy the Tithe Barn at an appropriate price and to restore it.
- f) It is clear from the drawings that significant amendments will be sought.
- g) If permission is granted there should be conditions to protect the amenities of the occupiers of the Dower House.

Development Plan Policies

The relevant policies are:

RSS8: Policies 3 & 31

Local Plan: Housing Policies 5 & 11 and Environment Policies 12 & 13

Planning Considerations

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

- The principle.
- Impact on the conservation area.
- Impact on the listed building.
- Residential amenity.
- Highways and parking.

Planning Assessment

The site lies in an established settlement with a good range of local facilities and travel options. The proposal would re-use an existing building, as part of an approved

conversion scheme. As such the principle of the proposal would be in accord with sustainable development objectives.

Subject to conditional control over external alterations, the proposal would assist in the restoration of a building of great importance to the appearance of the conservation area, which would thus be enhanced. Whilst the proposal would function as a domestic entrance to the building this would be away from general public view. Therefore the character of the conservation area would be preserved.

The proposal would have minimal impact on the Grade II* listed building and would provide the opportunity for much needed investment in the fabric of the building. Therefore the preservation of the building would be assisted by the proposal.

Given the extant permission, the proposals would not result in demonstrable harm to the amenities of neighbours.

There would be no change in traffic generation compared with the approved scheme.

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. M37.4-003A received 9 June 2008.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Large scale drawings to a minimum Scale of 1:10 of the glazed roof 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 glazed roof 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. All works of alteration and making good of the existing fabric of the building shall be carried out in matching reclaimed brick and plain clay tiles, samples of which shall have previously been submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the appearance of the building.
5. 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 building and the character of the area.

6. 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 and the character of the area.

7. 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, 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.

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.

Item **1.3**

Reg. No. **9/2008/0124/L**

Applicant:
Trustees Of Melbourne Heritage Fund

Agent:
Kay Davies
Fisher German
The Grange
80 Tamworth Road
Ashby De La Zouch
Leicestershire
LE65 2BN

Proposal: **Change of use of outbuildings to form new entrance
and extension to ground floor apartment at The Tithe
Barn Church Square Melbourne Derby**

Ward: **Melbourne**

Valid Date: **04/02/2008**

Reason for committee determination

See report 9/2008/0123/U.

Because the building is Grade II* listed there is a requirement to refer the matter to the Government Office if the Council is minded to grant consent.

Recommendation

That the Committee be minded to **GRANT** listed building consent subject to the requirement to refer the application to the Government Office for the East Midlands, and subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three 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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. M37.4-003A received 9 June 2008.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Large scale drawings to a minimum Scale of 1:10 of the glazed screen 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 glazed screen and external joinery shall be constructed in accordance with the approved drawings.



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

4. All works of alteration and making good of the existing fabric of the building shall be carried out in matching reclaimed brick and plain clay tiles, samples of which shall have previously been submitted to and approved in writing by the Local Planning Authority.

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

5. 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 building and the character of the area.

6. 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 and the character of the area.

7. 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, 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.

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.

Item **1.4**

Reg. No. **9/2008/0164/F**

Applicant:

Mr Mrs J McLeish
Egginton Road
Etwall
Derby
DE65 6NB

Agent:

Montague Architects
9 Vernon Street
Derby
DE1 1FR

Proposal: **The erection of a two detached dwellings in the garden of Rakehill 5 Egginton Road Etwall Derby**

Ward: **Etwall**

Valid Date: **18/02/2008**

Reason for committee determination

Councillors Brown and Lemmon have requested that the application be brought to Committee as local concern has been expressed about a particular issue.

Site Description

The site is set back from Egginton Road; on the frontage to Egginton Road to the west there is a small cottage where the eaves height of the cottage is at the same level as the ground level on the application site. The main habitable room windows of this dwelling look south with no windows that could be discerned on the east elevation; in any event windows on the north side of that cottage would face directly into a bank. To the north of the site are the play areas of the Etwall Primary School. Land to the east is the garden to dwellings on Ash View Close and to the south is a row of dwellings fronting to 'Old Egginton Road'; these are accessed via Belfield Road. These houses are set at a slightly lower level than the application site. The site has numerous trees within it and some of these are to be felled.

Proposal

The proposal is to erect two dwellings either side of the existing house. This will involve adaptations to the original dwelling, as this would have windows that would suffer overbearance should the new houses be built. The adaptations are relatively straightforward and easily achieved; a plan has been submitted to show what would be required.

Access to the three dwellings would be via a new vehicular access to 'Old Egginton Road' that is serviced from Belfield Road, currently a pedestrian access only; if permitted it is proposed that the existing access to Egginton Road would be reduced to a pedestrian only access to the site. An amended plan has been submitted to show this detail.



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Applicants' supporting information

The applicants note that planning permission was granted in the 1970's for three new houses on the site; that permission was not implemented. It is now proposed to retain the original dwelling, with adaptations to prevent overlooking and overbearance, and position a dwelling to each side. The larger of the two is sited to the north of the existing house, the other dwelling of a simpler design is proposed to the south of the existing dwelling.

The southern most dwelling is designed to provide a transition between the existing dwellings and the larger plots to the north (including the existing dwelling)

Although trees would be removed as part of the development, a substantial number of trees would be retained. The trees to be removed are indicated on the plan accompanying the application.

The dwellings will be designed to be thermally efficient and other sustainable energy sources would be considered and included as part of a detailed design of the dwellings. The applicants consider that the scheme is well designed in accordance with the Local Planning Authority's requirements and is a scheme that would have little impact on the surrounding environment and existing streetscape.

Planning History

Permission to redevelop the site with 3 dwellings was permitted in the mid 1970's and permitted again in 1978. In 1981 permission was granted for the extension of the existing dwelling.

Responses to Consultations

Etwall Parish Council has no objection to the principle of the development but would prefer to see the development served via the existing access to No 5 from Egginton Road, would object to the loss of trees on the site and would support any objections from neighbours. However, in response to the amended drawing, it has no objection but states that it can find no evidence that the access was previously in use.

The County Highway Authority would object to the increased use of the existing access to Egginton Road because of the lack of visibility available for drivers emerging from the site. It has considered the proposal to serve all the dwellings from 'Old Egginton Road' and has no objection subject to the imposition of conditions.

The Environmental Protection Manager has no comments.

Responses to Publicity

6 letters have been received that object or comment on the proposal in the following terms:

- a) There has never been a vehicular access to the site off 'Old Egginton Road' and the formation of a new access is objected to. There is no objection to the houses solely the proposed means of access. Many school children use 'Old Egginton Road' to get to school and they could be at risk during building operations.
- b) The development would result in the loss of a substantial amount of greenery and trees particularly those houses to the rear of Rakehill. A large horse

chestnut tree is sited close to the boundary that could be compromised and cause a loss of habitat.

- c) The boundary between the school and the plots is not clear and this will need to be addressed, as it appears that the existing fence is in fact set within the school grounds. In addition it is not agreed that the boundary to the school is well screened

Development Plan Policies

The relevant policies are:

RSS8: Policies 1,2 & 3.

Retained Local Plan Policies: Housing Policies 5 and 11; Environment Policy 9.

Planning Considerations

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

- The Development Plan
- Access considerations
- Impact on neighbours
- The design of the buildings.
- Impact on trees

Planning Assessment

The development is in accord with the development plan policies for the use of land within the defined village framework for housing. The issues are the impact on neighbours and the access to the site.

The proposed vehicular access is clearly a new one; there is no existing vehicular access. There is a pedestrian gate but that does not appear to be well used. The applicants have provided evidence of ownership of the land between the end of 'Old Egginton Road' and the site boundary and are therefore in a position to create the new access. This is a clear alternative to the existing access that does not meet the requirements for visibility expected by the County Highway Authority. On the advice of the County Highway Authority the new access is acceptable from a highway safety point of view subject to the imposition of the recommended conditions.

The impact of the dwellings on neighbouring properties has been carefully assessed. The houses on Ash View Close and on 'Old Egginton Road' would not be unduly affected by the development. There would be some loss of trees and thus screening but the windows in walls facing the development are sufficiently far away as to comply with the separation standards in the Councils Adopted SPG – Housing Layout and Design. 3 Egginton Road is set significantly lower than the proposed larger dwelling; its main windows are in the end elevations. In addition the rear of the house is set into the ground and windows in the rear elevation are adversely affected by that fact rather than the presence of the new dwelling. The main habitable rooms windows in the end elevation would be unaffected by the proposed dwelling.

The design of the proposed buildings employs features that reflect local distinctiveness and are of a suitably modest scale in relation to the size of the developable area. As such they are considered acceptable and would complement the mixed form of the dwellings in the locality.

The loss of trees is a concern for the Parish Council and some local residents. The reason the application was withdrawn from a previous Committee was to ensure that there were no trees of outstanding significance that should be retained within the site that are proposed to be felled. Of the trees within the site a cedar tree was identified as one that could merit consideration for a tree preservation order.

The site is set in a well treed environment provide both by trees within the site and may others outside the site. The cedar tree is not easily distinguished amongst these other trees from outside the site and the conclusion is that it does not contribute to the wider character of the area or contribute significantly to the immediate surroundings within the site.

Other trees would be retained within the site that have a greater contribution to its setting and as such the conclusion is that the loss of trees arising from the development of the site would not be significant and subject to the submission of a detailed landscaping scheme, the development conforms to the above development plan 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 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.1898-05C dated 14 April 08. The alterations to the north and south elevations of Rakehill 5 Egginton Road Etwall shall be undertaken prior to the first occupation of either of the dwellings hereby permitted.
Reason: For the avoidance of doubt, the original submission being considered unacceptable and to ensure that the new dwellings do not overbear on habitable room windows in the original dwelling.
3. Prior to any other works commencing, the new access shall be formed with the service road on the southern side of the site. The access shall have a minimum width of 4.1m and be surfaced in a solid bound material for at least the first 5m into the site from the highway boundary.
Reason: In the interests of highway safety.
4. Prior to any other works commencing (except condition 2 above), the existing access shall be permanently stopped up in accordance with the revised drawing 1898-05C and the footway reinstated in accordance with a scheme first submitted to and approved by the Local Planning and County Highway Authorities.
Reason: In the interests of highway safety.

5. Prior to the occupation of the first new dwelling, the car parking and manoeuvring space shall be laid out in accordance with the revised application drawing 1898-05C and maintained thereafter free of any impediment to its designated use.
Reason: To ensure that adequate parking/garaging provision is available.
6. Prior to the first occupation of the dwellings hereby permitted, the works to Rakehill, 5, Egginton Road Etwall shall have been completed in accordance with the information on Drawing 1898-05C and the windows shall thereafter remain blocked up in accordance with the submitted details.
Reason: In order to ensure that the occupiers of the existing dwelling do not overlook the occupiers of the new dwellings.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, none of the dwellings hereby permitted shall be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.
Reason: To maintain control in the interest of having regard to the setting and size of the development, the site area and effect upon neighbouring properties.
8. 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 ensuring that alterations do not adversely affect the amenity of the occupiers of the adjacent dwellings.
9. 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.
10. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets unless otherwise agreed in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the character of the area.
11. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
Reason: In the interests of the appearance of the area.
12. 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.

13. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

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.

Item **1.5**

Reg. No. **9/2008/0260/F**

Applicant:

Melbourne Property Ltd
Clifton Campville
Tamworth
Staffordshire
B79 0BE

Agent:

Brownhill Hayward Brown
Georgian House
24 Bird Street
Lichfield
Staffordshire
WS1 6PT

Proposal: **The erection of shop, office and residential units at
Land At 10 14 Derby Road Melbourne Derby**

Ward: **Melbourne**

Valid Date: **29/02/2008**

Reason for committee determination

The application is brought to Committee at the request of Councillor Harrison because local concern has been expressed about a particular issue.

Site Description

The site is presently used for car parking to its rear part. The frontage is used as an informal open space. Buildings once occupied the site. The area is characterised by a traditional mixture of domestic and larger scale buildings including a number of three storey properties. The site lies within the conservation area.

There is a row of dwellings in Chapel Street, set at a lower level, that have outlook from kitchen and bedroom windows across the site. The main habitable rooms of these dwellings face onto formal gardens fronting Chapel Street.

Proposal

The proposed development would be attached to the existing building at 12-14 Derby Road and would be of variable height, from two to three storeys. The highest part of the building would be some 11.5 metres above ground level. A complex individual design approach has been employed. The building would occupy most of the frontage of the site. An archway would provide pedestrian access to the rear of the development where there would be a single storey shop unit projecting behind the main building (with accommodation in the roof space). External stairs and a walkway would provide access to first floor office accommodation.

The main bulk of new building would be set at an angle to the rear elevations of properties in Chapel Street, such that the distance between them would range from about 14.5 m to 20 m. The single storey range to the rear would be about 10 m from the dwellings although one has a kitchen extension, which would be some 6.5 m distant.



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The development would comprise a mix of shops and offices on the ground and first floors, with two apartments at second floor level. No on-site parking is proposed.

Compared with a scheme subject to an extant grant of permission (see Planning History below) the principle differences are that the proposed usage of floorspace has changed, there would be less three storey, the building footprint would be bigger towards the rear, and the style adopted would be more traditional and decorative.

Applicants' supporting information

- The scheme is designed to reflect the height, scale and to some extent the appearance of neighbouring and adjacent properties.
- The use of the rear part of the building tends towards service rooms, stairs, WCs and circulation corridors, to minimise impact on properties in Chapel Street.
- The passageway from Derby Road through the building would provide intriguing and inviting glimpses in to the rear yard, which would have a sitting area and possible tea garden.

Planning History

Permission was granted for the erection of a three storey building on the site in 1997 (9/1296/0695/F). The ground floor would be taken up by shops, with four flats over. Permission was granted for a terrace of similar mass, containing four dwellings, in 2001 (9/2000/0986/F) and this was renewed in 2006 (9/2006/0010/B).

Responses to Consultations

The Parish Council objects to the lack of parking on site.

Melbourne Civic Society comments/objects as follows:

- a) The development would improve the appearance of the conservation area.
- b) Existing parking problems would be exacerbated.
- c) The lack of loading facilities would lead to congestion and disruption to traffic.
- d) The viability of other premises in the village could be adversely affected.
- e) There would be overshadowing and overlooking to neighbours.

The Design and Conservation Officer considers that the scheme would have a similar impact on the character of the conservation area to the former permitted scheme and in some respects would be better. As a result in the change in its use the building would address the street more successfully, as it would have more active frontages, which is to be welcomed. The introduction of a courtyard intensifying the use to the rear would add vibrancy to the street because of the views through the arch into it, and the comings and goings of customers. The ridge heights in the Derby Road range would relate well to the existing buildings on the same side of Derby Road and the three storey gables retain the strength of the elevation and reflect the three-storey building opposite.

The Highway Authority is concerned about the lack of off-street parking. However in view of the site's location and the existing car parking situation in Melbourne, it would be difficult to demonstrate that approval of the proposal would result in a material increase in the demand for parking spaces within the town centre. As such the Highway Authority considers that it would be difficult to sustain an objection.

Severn Trent Water Ltd has no objection.

The Council's consultant arboriculturist has given advice on minimum distances required to avoid serious damage to the roots of two Yew trees in the adjacent church yard.

Responses to Publicity

Three letters have been received objecting in the following terms:

- a) Previous changes of use of premises to offices have increased parking and congestion problems.
- b) The area is regularly congested with parked vehicles.
- c) One of the effects of parked vehicles is to obscure the frontages of local shops, deterring passing trade.
- d) The public car park is frequently full.
- e) Derby Road and Chapel Street are bus routes and increased parking would affect these.
- f) There would be adverse impact on the cottage in Chapel Street.
- g) Delivery vehicles would cause disruption to traffic flow.
- h) There would be increased risk of accident.
- i) The lack of parking has led to arguments and a resident's car has been regularly vandalised.

Development Plan Policies

The relevant policies are:

RSS8 Policies 3 & 31

South Derbyshire Local Plan: Housing Policy 5 & 11 Environment Policies 9,12 &13 and Transport Policy 6.

Planning Considerations

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

- The principle.
- The effect on the character and appearance of the conservation area.
- Residential amenity.
- Highway safety and parking.
- Trees

Planning Assessment

The site lies in the heart of a village with a good range of local facilities and would involve the re-development of previously used land. Therefore the principle of development would be in general accord with sustainability objectives.

The site fails to make a positive contribution to the conservation area in its present state. Development of the site in an appropriate manner would therefore be desirable in this regard. The proposed building has been carefully designed to respect the historic pattern of the built form of the Melbourne Town Centre area. The proposed mix of uses would introduce vibrancy and vitality to the commercial heart of the village. As such the

development would produce a significant enhancement to the character and appearance of the conservation area.

The residential properties in Chapel Street are affected to varying degrees depending on the distances between them and the proposal. Their main elevations face onto Chapel Street. The elevations to the rear, which could be affected by the new building, contain secondary and non-habitable room windows. Supplementary planning guidance on space about dwellings seeks a minimum distance of 9 m from a secondary aspect window to a two-storey side elevation. In this instance the minimum distance between the main blocks and the existing dwellings would range from 14.5 m to 19 m. The mass of the new building would be considerably greater than a normal two-storey block, particularly in view of the fact that the application site is at a higher level than Chapel Street. Nevertheless it is considered that the guideline minimum distance is exceeded by a sufficient amount such as to avoid unreasonable overbearing on the neighbouring properties.

The rear single storey range would be about 9.5 m away from the main rear facades of the Chapel Street properties but the extension to the rear of No 19 would be some 6.5 m away. Because of its fairly narrow gable width (5.5 m) and a height to the ridge of 6 m the mass of the building would not have unacceptable impact on the living conditions of the occupants of those dwellings, particularly as sitting rooms and main bedrooms are orientated towards Chapel Street.

The kitchen window to one of the apartments could cause overlooking to the rear windows of dwellings in Chapel Street. However a condition requiring obscure glazing, as necessary, would satisfactorily overcome this problem. The access deck and stairs serving the first floor offices would allow views towards Chapel Street but they would be further away from neighbours' windows (16 m – 20 m) and transitory. Because the offices would tend to be closed when the dwellings are most used the scope for any conflict would be minimal.

There is no realistic prospect of providing on-site car parking without seriously compromising the design. However there is a public car park within easy reach of the development. Furthermore it is likely that many of the people visiting the shops will be in the town centre for other reasons. The offices would have a greater tendency to generate specific journeys but on the advice of the Highway Authority it is unlikely that a material increase in demand for town centre parking could be demonstrated. Notwithstanding local concern about parking the proposal offers to introduce a very positive townscape and character feature to this important site and area. A condition could be imposed to provide facilities for cyclists.

The building would be sited so as to satisfy the recommendations of the consultant arboriculturist. This will enable the preservation of the Yew trees in the churchyard, subject to appropriate pruning works.

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 nos. 2195.02.02 rev A, 03 Rev A, 04 Rev A, 05 Rev A, 07 Rev A, 09 Rev A.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building and boundary walls have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Notwithstanding the submitted plans, drawings to a scale of not less than 1:20 of the following shall be submitted to and approved in writing by the Local Planning Authority prior to their incorporation in the development:
 - a. external joinery, including sections, precise construction, method of opening and cill and lintel details;
 - b. eaves, verges and parapets;
 - c. band courses and oversailing courses;
 - d. rooflights;
 - e. chimneys;
 - f. the bay windows; and
 - g. the external stairs and gallery.Reason: To ensure that these details are appropriate to the conservation area.
5. Pointing of the existing/ proposed building(s) 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.
Reason: In the interests of the appearance of the building.
6. 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.
7. 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 building(s) and the character of the area.

8. 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.

9. 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.

10. 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. 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.

11. Unless as may otherwise be agreed in writing with the Local Planning Authority the kitchen window to Apartment No 2 shall be permanently glazed in obscure glass up to transom level, in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.

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

12. 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.

13. No site clearance works or development of a phase shall take place until there has been submitted to the Local Planning Authority for their approval a scheme showing the type, height and position of protective fencing to be erected around two Yew trees adjacent to the site, and a scheme and timetable for pruning of the trees. The scheme shall comply with BS 5837:2005. The area surrounding the trees within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- i. There shall be no changes in ground levels;
- ii. No material or plant shall be stored;
- iii. No buildings or temporary buildings shall be erected or stationed;

- iv. No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- v. No drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

The pruning shall be undertaken in accordance with the approved scheme and timetable.

Reason: To ensure that the long-term amenity value of the tress is protected.

14. No development shall commence until design details of the cycle storage facilities for the offices and apartments have been submitted to and approved in writing by the Local Planning Authority and the buildings shall not be occupied until these facilities have been provided on site.

Reason: To make adequate provision for cyclists in the interests of sustainable development.

15. Before any other operations are commenced, a temporary access shall be formed into the site for construction purposes, and space shall be provided 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 scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

16. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

17. Prior to the first use of the development the existing vehicular crossing fronting the site shall be reinstated in accordance with a scheme that shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

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.

Item 1.6

Reg. No. 9/2008/0466/F

Applicant:

Mr J De Souza
Shirley
Solihull
B90 2RT

Agent:

Nigel Dutton Design
49 Falcon Road
Anstey
Leicester
LE7 7FY

Proposal: **The erection of a dwelling at Land Adjacent To 20
Edward Street Hartshorne Swadlincote**

Ward: **Hartshorne & Ticknall**

Valid Date: **09/05/2008**

Reason for committee determination

The application is brought to Committee at the request of Councillor Murray as local concern has been expressed about a particular issue and the Committee should debate the issues in this case which are very finely balanced including parking issues.

Site Description

The application site is situated within a residential area within the Swadlincote development boundary. The site is an enclosed area of disused land adjacent to No. 20 Edward Street and located between neighbouring gardens belonging to Nos. 18, 20 and 22 Edward Street. To the east of the site are open fields. There is an existing right of way across the site that provides access to the rear of No.18 and No. 20 Edward Street. No. 18 Edwards Street is owned by East Midlands Housing.

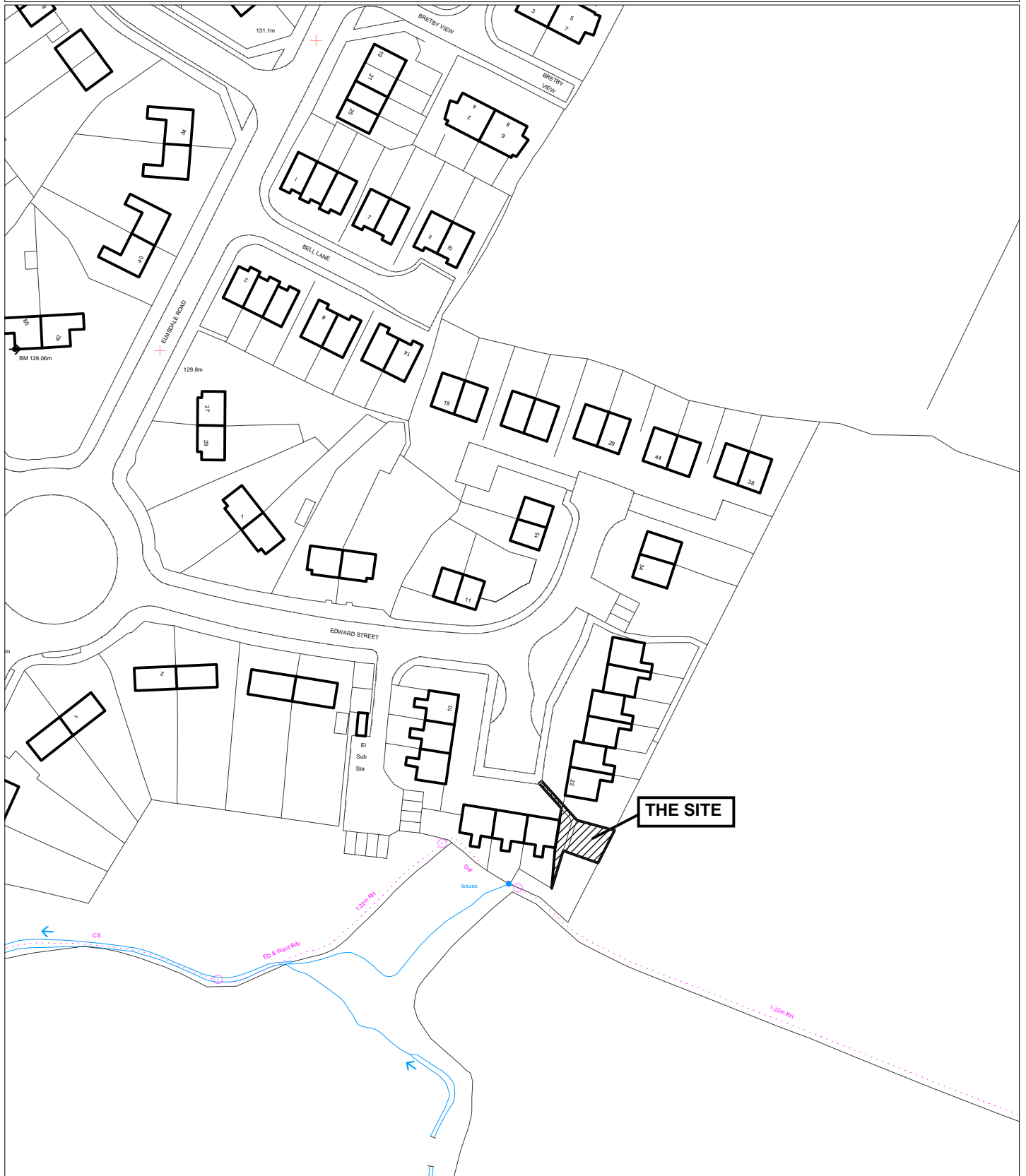
Proposal

The proposal is for a small two-bedroom end-terraced house attached to the side of No.20 Edward Street. The dwelling would be two-storey with a lower ridge height than the existing terraced properties. The main windows to the property would be to the side and rear with no main windows to the front of the property. Parking would be on street.

Applicants' supporting information

The Design and Access Statement, a full copy of which is available for inspection on the file, states that the land is currently unused as amenity land and is wasteland. The proposed dwelling would be a small unit aimed at the base level market. The dwelling would be two-storey to mirror the adjoining properties but of a smaller scale. The dwelling would respect the character and appearance of the street scene and would match in the form of materials. The right of way that runs across the site would be re-aligned. There is an existing car parking space with a dropped kerb that serves No. 20. The parking for the proposed dwelling would be on street.

9/2008/0466/F Land adjacent to 20 Edward Street Hartshorne



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Planning History

There is no planning history for the site.

Responses to Consultations

The Highway Authority has commented that whilst it is not ideal to have a dwelling with no off-street parking, in view that the site is off the end of a cul-de-sac it would be difficult to justify a refusal on highway grounds. The re-sighting of the lamp column to the front of No. 20 Edward Street would make access to the existing parking space more convenient.

Environmental Health has no objection.

Severn Trent Water has no objection.

Responses to Publicity

Four letters of objection have been received raising the following issues:

- The area for the new right of way is prone to flooding.
- The new right of way is too narrow and will prevent access for the parking of motorbikes and use of wheelie bins, wheel barrows etc.
- The new right of way will create an alleyway providing access to the adjacent field, loss of amenity to No. 22 and potential for anti-social behaviour.
- The proposal will lead to the loss of part of a neighbouring vegetable patch and fruit trees.
- The rear boundary will be encroaching onto East Midlands Housing land.
- There will be additional parking problems in an already overcrowded cul-de-sac.
- The appearance of the dwelling and plot size is not in keeping with the scale and character of the surrounding area.
- The proposed house would appear cramped and result in a loss of 'breathing space' around the neighbouring properties detracting from the visual amenities of the area.
- The windows to the rear of the proposed property will overlook a neighbouring pigeon loft, which may cause friction with the new occupiers.
- The re-alignment of the right of way to the opposite side of No.18's garden will incur costs to the occupiers of No. 18 for a new path to meet up with the existing footpath.
- The proposal would have an overbearing effect on, cause a sense of enclosure to and overshadow the neighbouring garden at No. 22.
- The design of the proposed house is poor and does not represent a positive addition to Edward Street.
- The proposed garden area for the new dwelling and remaining garden for No. 20 is insufficient.

Development Plan Policies

The relevant policies are:

RSS8: Policies 2 & 3

Local Plan: Housing Policies 4 & 11

Planning Considerations

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

- The principle of residential development
- Impact on amenity of neighbouring properties
- Design and appearance
- Highway considerations

Planning Assessment

The site is an area of disused land within the Swadlincote development boundary. It is understood that the land may have previously formed part of an area of private amenity land within the cartilage of No. 20 Edward Street and as such is considered a brownfield site. The land is bordered by neighbouring gardens on three sides and is not considered to be of any amenity value. Development is acceptable in principle on the site in line with Housing Policy 4.

No. 22 Edward Street is situated side on to the application site with main windows to the front and rear. The occupiers have raised concern regarding the potential for overshadowing of their garden area situated to the north of the proposed dwelling. The proposed extension would be situated to the south of this neighbouring garden. Whilst it is acknowledged that there may be some overshadowing of No. 22's garden at certain times of the year the Council's Supplementary Planning Guidance on Housing Design and Layout does not generally afford protection to overshadowing and overbearance of gardens and as such the proposal is acceptable in this regard.

The garden of No.18 Edward Street is split into two areas, one being immediately to the rear of No. 18 with an additional area containing a pigeon loft and vegetable patch situated to the rear of the application site. The Council's Supplementary Planning Guidance on Housing Design and Layout seeks to protect the immediate private garden space of dwellings from overlooking. The proposed first floor windows to the rear of the proposed dwelling would overlook this additional area of garden. On balance it is considered that the area of garden immediately to the rear of No. 18 is the primary private space and that this additional area is secondary. On this basis it is considered that it would be difficult to demonstrate significant harm to the amenity of the occupiers of No.18 in terms of overlooking of this additional garden area and as such the proposal complies with the Council's guidance.

The applicant has indicated that the whole of the application site is under their ownership. The applicant has been advised of the comments of East Midlands Housing Association regarding the possible encroachment of the rear boundary onto their land.

The re-alignment of the right of way providing access to the rear of No. 18 and 20 Edward Street is a civil matter and not for planning consideration.

The proposed dwelling would have the appearance of a subordinate two-storey extension to the side of No. 20 Edward Street with a lower ridge height and narrower gable width than the adjoining dwelling. The dwelling has been designed to comply with the Council's Supplementary Planning Guidance in relation to overlooking of the neighbouring property. The front elevation is plain in appearance lacking fenestration detail in order to avoid overlooking of the garden of No. 22 Edward Street and retain the

privacy of the occupiers of the proposed dwelling from users of the right of way. PPS1: Delivering Sustainable Development and PPS3: Housing advises that planning authorities should aim for high quality design in new housing development. Whilst the design of this front elevation is not considered to enhance the quality of the surrounding area the proposed dwelling would be recessed from the front elevation of No.22 and situated in an enclosed corner at the end of a cul-de-sac. As such the dwelling is not in a prominent position within the street and the appearance is not considered to be of any significant detrimental impact on the character of the wider area.

The parking within the cul-de-sac is on street. No. 20 Edward Street has a single parking space to the front of the property. The re-sighting of the lamp column to the front of No. 20 would improve access to this space. Although an additional dwelling in an area with no off-street parking is not ideal the Highway Authority do not consider that a highway refusal could be justified in view that the property is at the end of a cul-de-sac.

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 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.
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. 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. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be enlarged or extended and no new windows inserted without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

6. 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. 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.

Informatives:

In order to improve access to the existing parking space at No.20 Edward Street you are advised to contact the County Highway Authority on 01629 580000 with regard to submitting a scheme for the re-location of lighting column 46546.

Item **1.7**

Reg. No. **9/2008/0579/U**

Applicant:

Mr Adrian Dawson
Barrow-on-trent
Derby
DE73 1NH

Agent:

Mr Christopher Thorp
Chris Thorp Planning Ltd
20a Hazelwood Road
Duffield
Belper
Derbyshire
DE56 4DQ

Proposal: **The change of use of paddock into residential curtilage
at The Hill Lodge Deep Dale Lane Barrow-on-trent
Derby**

Ward: **Aston**

Valid Date: **23/05/2008**

Reason for committee determination

The application has implications for policy on development away from settlements.

Site Description

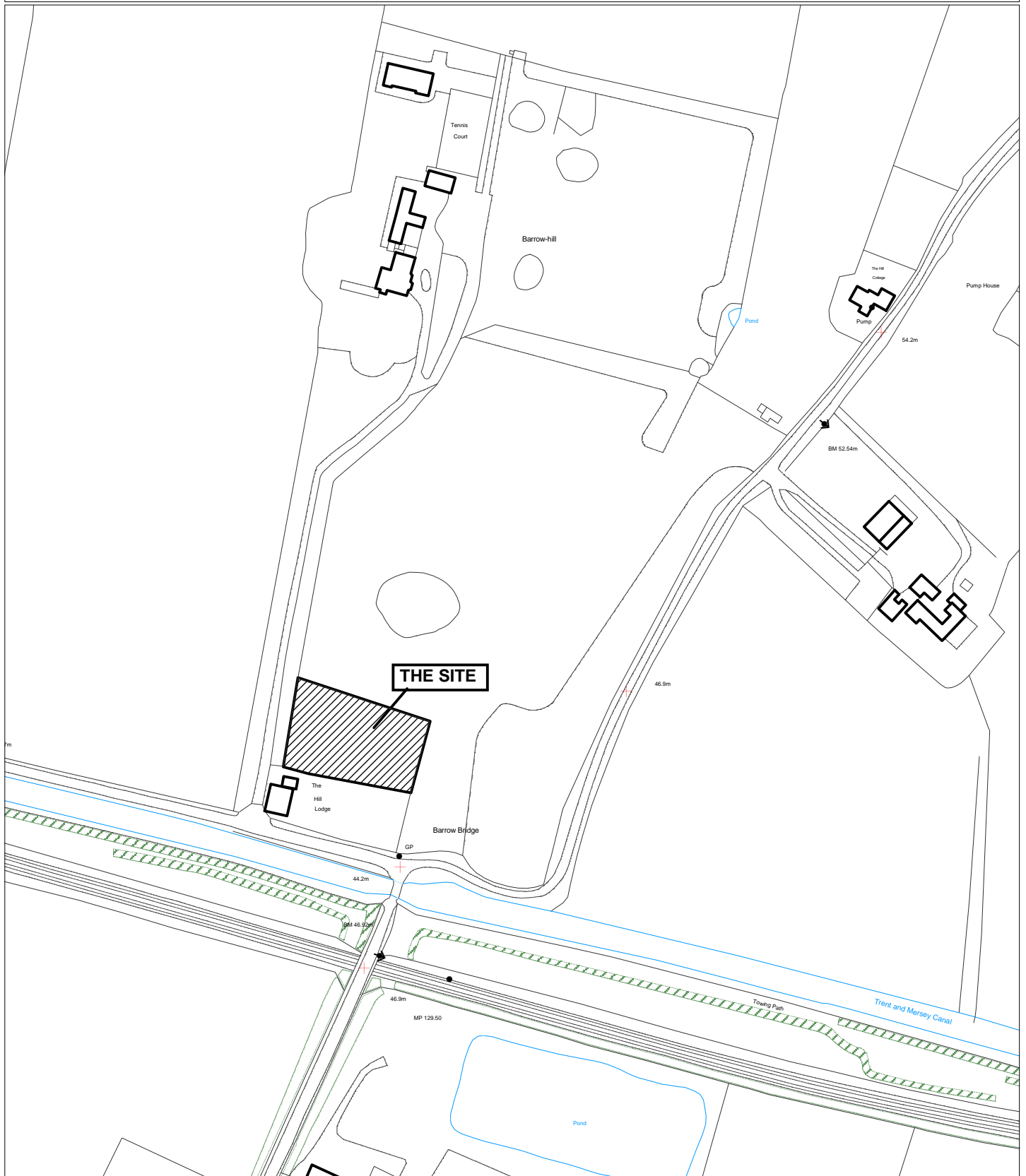
The site is the former lodge to The Hill and is served by a private drive shared with that property. Whilst the property has a large garden about half of the land attached to the property does not benefit from lawful use as residential curtilage. However a stable, a garage and hardstanding and a store have been built on this land in recent years, as detailed in the planning history below.

Proposal

The proposal would enable the remainder of the land to be used for purposes incidental to the enjoyment of the dwellinghouse.

Applicants' supporting information

- The office use that was carried out from one of the outbuildings has ceased. As a result there is no useful purpose for that building because the applicant has no wish to sub-let the office to a third party, partly because he does not want the potential security issues that would be associated with such a use, and partly because commercial uses have been the source of friction with his neighbour at The Hill.
- Secondly, the land in question currently benefits from a variety of uses, including office, agriculture and a domestic for the garage. The opportunity arises to consolidate the application area and the residential area into a single planning



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unit, with advantages to the local planning authority and to the applicant with regard to the potential future disposal of the property as a single entity.

- Now that the use of the office building has ceased, the building is not being put to any beneficial use, whereas by incorporating it into the curtilage of the adjoining dwelling it can be put to a useful purpose such as ancillary recreational activities, guest accommodation, and storage. None of these would have any adverse impacts on the enjoyment of the nearby dwelling at The Hill, and nor would they have any impact on the character or appearance of the site and the surrounding area.
- With regard to Local Plan Policy EV1, whilst the use is not essential to a rural based activity and is not unavoidable in the countryside, the site has legitimately acquired uses in addition to the original agricultural use. Furthermore the site is exceeding well screened and there would be no harm to the character or appearance of the countryside.

Planning History

9/0390/1320/F - Stable block. Work commenced within five years of the grant of permission.

9/2002/1020/F - Conservatory. This has not been built.

9/2002/1038/F - Two storage sheds (one in the garden and one in the paddock) and revised plan for stables.

9/2002/1211/F - Hardstanding and access.

9/2003/0267/F Erection of feed store and tack shed to be attached to stable.

Permission refused on the grounds of visual impact.

9/2003/0480/F - Conservatory and garage.

9/2003/1026/U - Change of use and alterations to stables for office use. Refused on the grounds of traffic and the visual impact of the proposed changes.

9/2004/0534/FH - The installation of a balcony, and alterations to previously approved shed.

9/2005/0194/F - Animal rearing shed. Refused on the grounds of visual impact.

9/2005/0040/F – Garage (revised elevations).

9/2005/0807/U – Change of use of stable to office and retention of hardstanding.

9/2006/0423/F – Animal rearing shed. Refused on the grounds of visual impact.

9/2007/0076/F – Extension to office. Refused on policy, visual impact and sustainability grounds. Appeal dismissed.

Responses to Consultations

None received.

Responses to Publicity

None received.

Development Plan Policies

The relevant policy is:

Local Plan: Policy EV1

Planning Considerations

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

- The principle
- Impact on the character and appearance of the countryside.

Planning Assessment

The application does not accord strictly with the requirements of Environment Policy 1 of the South Derbyshire Local Plan. However, whilst the use is not essential to a rural based activity and is not unavoidable in the countryside, the application site has legitimately acquired uses in addition to the original agricultural use. The office use in particular could presently be severed from the dwelling, which would not be in the best interests of sustainability. The residual paddock is unlikely to be capable of supporting a free-standing agricultural business. The inclusion of the land in the curtilage of the dwelling would render the entire site a single planning unit with unambiguous lawful use for such purposes.

The site is well screened, and with regard to the underlying policy objective of ensuring that there would be no demonstrable harm to the character or appearance of the countryside. Appropriate conditions would control the use of the existing buildings and prevent any new buildings from being built on the application site under permitted development rights. As such neither the policy nor the character of the area would be prejudiced.

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 provisions of the Town and Country Planning (General Permitted Development) Order 1995, no buildings and no gates, walls, fences or other means of enclosure shall be erected on the application site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.
Reason: To ensure that any such structures are appropriate to the character and appearance of the locality.
3. On commencement of the use hereby permitted the existing buildings on the site shall be used for purposes incidental to the enjoyment of the dwelling known as The Hill Lodge Deepdale Lane Barrow on Trent only.
Reason: In the interests of sustainability.