

Responses to Publicity

No adverse comments received.

Development Plan Policies

The relevant policies are:

PPS22 – Renewable Energy (2004)

Regional Spatial Strategy for the East Midlands – 2005 (RSS8): Policy 41

Joint Structure Plan - 2001: Environment Policy 19

Planning Considerations

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

Sustainability

Impact on the landscape

Impact on residential amenity

Planning Assessment

PPS22 states that ‘small scale projects’, of which this is one, ‘can provide a limited but valuable contribution to overall outputs of renewable energy and to meeting energy needs both locally and nationally. Planning authorities should not therefore reject planning applications simply because the level of output is small.’ It goes on to say that ‘small scale renewable energy schemes utilising technologies such as solar panels, Biomass heating, small scale wind turbines, photovoltaic cells and combined heat and power schemes can be incorporated both into new developments and some existing buildings. Local planning authorities should specifically encourage such schemes through positively expressed policies in local development documents.’

With regards to the impact on the landscape it states that ‘of all renewable technologies, wind turbines are likely to have the greatest visual and landscape effects. However, in assessing planning applications, local authorities should recognise that the impact of turbines and the type of landscape will vary according to the size and number of turbines and the type of landscape involved.’

The adopted Development Plan includes the Regional Spatial Strategy, the Joint Structure Plan and the Local Plan.

RSS8 is generally supportive of renewable energy proposals and states that in establishing criteria for onshore wind energy future Local Development Frameworks, should give particular consideration to:

- * Landscape and visual impact, informed by local Landscape Character Assessments;
- * The effect on the natural and cultural environment (including bio-diversity and the setting of historic assets);
- * The effect on the built environment (including noise intrusion);
- * The number and size of turbines proposed;
- * The cumulative impact of wind generation projects, including intervisibility;
- * The contribution of wind generation projects to the regional renewable targets; and

- The contribution of wind generation projects to national and international environmental objectives on climate change.

Environment Policy 19 of the Joint Structure Plan states that:

‘Development necessary to the harnessing and production of renewable energy will be permitted provided that:

1. it provides benefits including a reduction in greenhouse gas production that outweigh the disturbance caused by the development, or
2. the impact on the environment can be kept to an acceptable level.

There are no policies in the Local Plan relating to this type of development.

In working towards a more updated plan emerging policy attempted to take a permissive approach towards renewable energy production provided that proposals were acceptable in terms of design, siting, location and landscaping.

The Inspector however, in his report, criticised the policy as being too reactive and felt that in line with Government policy at the time it should take a more proactive stance identifying broad areas suitable for various types of renewable energy installations, or set out a range of proactive criteria against which such installations might be assessed. The Council considered that his recommendations would require significant specialist resources and had the plan not been withdrawn the policy would have remained intact but with a statement in the explanatory text referring to the production of supplementary guidance in due course. That exercise has now been superseded by the new Act and will be taken on board during the appropriate stage of Local Development Document formulation.

The proposal would be sited in an area that has no national or local landscape, historic or wildlife designation. There is no reference in the Derbyshire County Council’s Landscape Character of Derbyshire document to indicate that this type of development would be unacceptable.

The turbine would be sited adjacent to existing farm buildings on downward sloping land from Bretby Lane. It would be some distance from residential properties but would be visible from the eastern edge of Winshill and from properties on the north side of Bretby Lane. However, in view of the distance of the turbine from residential properties and its height at 15m, which is no higher than a mature tree, it is unlikely that the structure would appear as unduly intrusive in the landscape or detract from the openness of the countryside. The proposal is small in scale and will generate green energy which should be encouraged.

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).

13/12/2005

Item 1.6**Reg. No.** 9/2005/1195/FH**Applicant:**

Mr Mrs R Carr
 7 Windsor Avenue
 Melbourne
 Derby
 DE73 8FN

Agent:

S Foote
 10 Aurica Court
 Chester Green
 Derby
 DE1 3RH

Proposal: The erection of an extension at 7 Windsor Avenue Melbourne
 Derby

Ward: Melbourne

Valid Date: 07/10/2005

Site Description

The property is a detached house in a mature residential cul-de-sac. The house next door at No 9 has an extension to the rear, built onto the living room. There is a side window to the living room, facing the application site. From the plans for No 9 the extension is separated from the original living room by French doors.

Proposal

The applicant proposes to build over an existing single storey extension to form an additional bedroom.

Planning History

A similar but slightly smaller proposal was refused in 1992 (9/0892/0472/F) because of its impact on the side living room window to No 9. A copy of the report to Committee is attached for information.

Responses to Consultations

The Parish Council and Melbourne Civic Society have no objection.

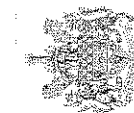
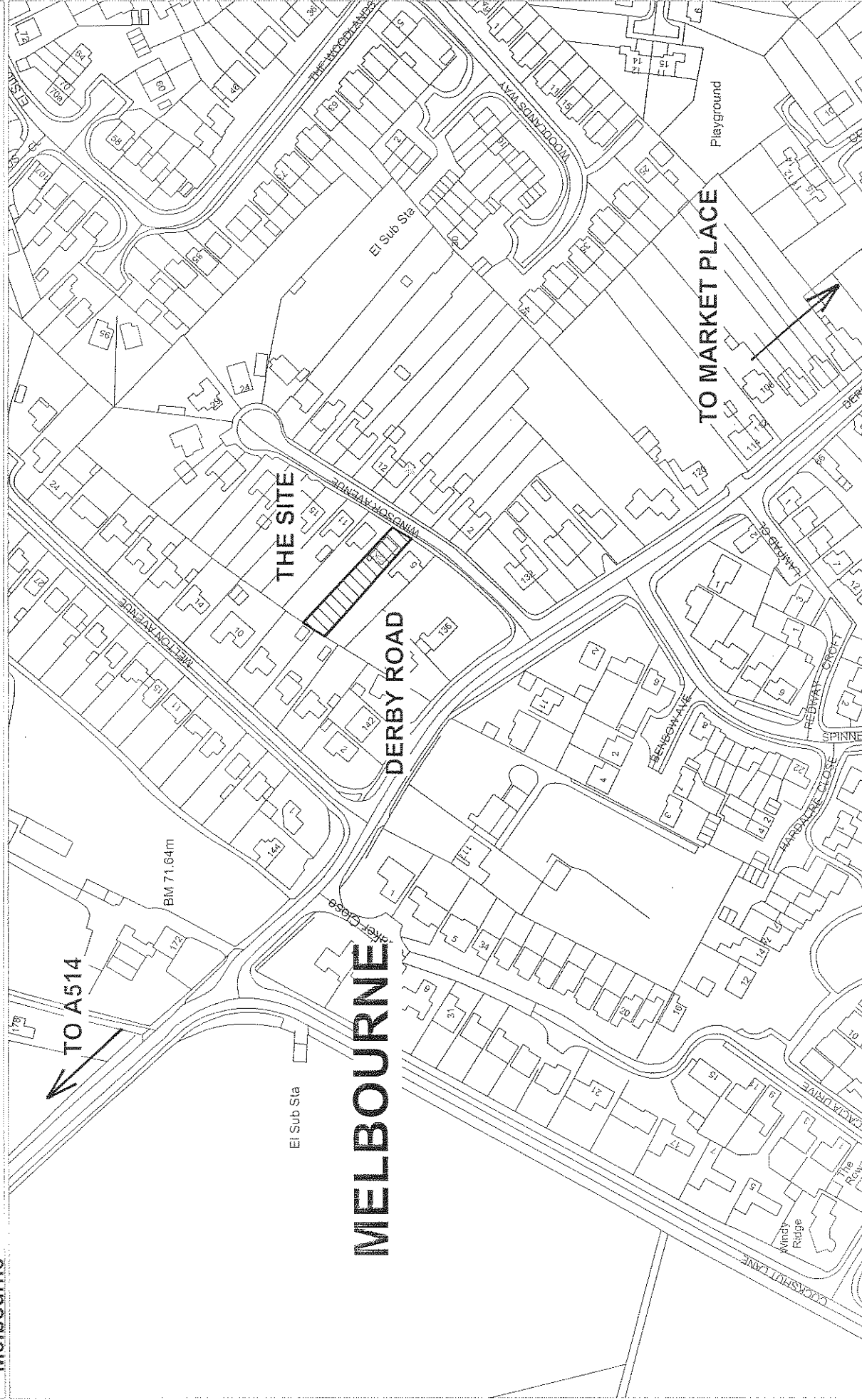
Responses to Publicity

The neighbour at No 9 objects as follows:

- a) 9/0892/0472/F was refused because of its serious effect on amenity.
 Since then the ground floor of No 7 has been extended by a further 1.1 m.
- b) The plans do not accurately show No 9's extension.

9/2005/1195/FH 7 Windsor Ave

Melbourne



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SWADLINCOTE DE11 0AH

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- c) The proposal would reduce light to two ground floor and one first floor windows.
- d) The proposed obscure glazed sided window to the extension would overlook the side windows in No 9 if opened.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policy 13.

Planning Considerations

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

- Visual impact.
- Residential amenity.

Planning Assessment

The extension would not be prominent in the street scene and there would be no harm to the general character of the area.

The physical characteristics of the site and its surroundings remain similar to those at the time of the previous refusal. However there has been an important change in policy. The supplementary planning guidance on house extensions makes it clear that side windows will not be protected by the separation distances set out in the guidelines. The reason for this approach, as set out in the guidance, is because to do so would be likely to result in those applying being unfairly disadvantaged.

Because of the change in policy since 1992 the balance now tilts in favour of the applicant and the proposal is therefore 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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. The new first floor window in the north east side wall of the building shall be permanently glazed in obscure glass.
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

13/12/2005

Item 1.7**Reg. No.** 9/2005/1214/U**Applicant:**

Ron Grundy (Melbourne) Ltd
 Shardlow Marina London Road
 Shardlow
 Derby
 DE72 2GL

Agent:

Ron Grundy (Melbourne) Ltd
 Shardlow Marina London Road
 Shardlow
 Derby
 DE72 2GL

Proposal: The change of six touring caravan pitches to static holiday home pitches (revised part scheme for 9/2004/1570/R) at Shardlow Marina London Road Shardlow Derby

Ward: Aston

Valid Date: 12/10/2005

Site Description

Shardlow Marina is an extensive leisure complex comprising boat moorings, caravans, boat building and repair workshops and a chandlery. The site affects an existing area occupied by touring caravans. It is adjacent to an area used for the siting of static caravans. The site lies within the green belt.

Proposal

The applicant seeks to use part of the existing touring caravan site for the siting of 6 static vans.

Planning History

Permission for the adjacent static site was granted under 9/2002/0409/U subject to a condition requiring the site not be used between November and March, on the grounds of flood risk. However usage for all months bar February was allowed on appeal, subject to the applicant implementing appropriate measures to protect occupants from flooding. The condition was complied with and the site is now in use.

Responses to Consultations

The Parish Council objects and would welcome a site meeting.

The Environment Agency has made a holding objection to enable current flood risks to be taken into account by the applicant.

9/2005/1214/U Shardlow Marina

London Road

Shardlow

SHARDLOW

THE SITE

NAVIGATION
INN

LONDON ROAD



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Development Plan Policies

The relevant policies are:

RSS8: Policy 25

Joint Structure Plan: General Development Strategy Policy 7 and Leisure and Tourism Policy 5

Local Plan: Green Belt Policy 1 and Recreation and Tourism Policy 1.

Planning Considerations

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

- The principle.
- Flood risk.

Planning Assessment

On appeal 9/2002/0409/U the inspector found that the change of use from a touring to a static site on the larger adjacent land would result in no increased impact on the green belt. The same reasoning is applicable to this smaller proposal, which is contiguous. The openness of the green belt would thus be preserved. Accordingly there would be no offence to the objectives of green belt policy in this instance.

The Environment Agency holding objection can be resolved by an appropriate condition, reflecting the inspector's approach at the previous appeal.

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. This permission does not authorise the layout submitted with the application.
Reason: For the avoidance of doubt and to ensure tree protection.
3. Before the site is brought into use details of the proposed access roads and hardstandings, on appropriately scaled drawings, shall be submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure adequate tree protection and landscaping in the interests of the appearance of the site.
4. 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.

5. 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.

6. All mobile homes within the site shall be used solely for holiday accommodation and none shall be occupied as a main residence.

Reason: The site lies in the green belt and the Local Planning Authority is only prepared to grant permission on the basis of the mobile homes being used for recreational purposes.

7. The caravans shall not be occupied during the month of February.

Reason: To protect the occupants from flooding.

8. No more than 6 static holiday caravans shall be located within the area edged red on the submitted plan.

Reason: For the avoidance of doubt and to ensure a satisfactory appearance to the site.

9. Before the use begins an emergency flood plan, including the means of evacuation of the site in the event of major flooding, shall be submitted to and approved in writing. The approved plan shall be implemented concurrent with the commencement of the use and shall be applied thereafter unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: In the interests of flood protection.

13/12/2005

Item 1.8**Reg. No.** 9/2005/1275/FH

Applicant:
 Mr H Parkin
 C/O Housing Maintenance SDDC

Agent:
 Mr. S. Greaves
 S. G. Design Studio
 202 Woodville Road
 Hartshorne
 Swadlincote
 Derbyshire
 DE11 7EX

Proposal: The erection of an entrance porch and the repositioning of a shed at 9 Gresley Woodlands Church Gresley Swadlincote

Ward: Gresley

Valid Date: 26/10/2005

The applicant is South Derbyshire District Council Housing Maintenance Department.

Site Description

The property is a Local Authority bungalow situated within a complex of bungalows with pedestrian access at the front and vehicular access from the street at the rear.

Proposal

The proposal is for a porch extension to house a mobility scooter and relocation of the existing shed.

Applicants' supporting information

Supporting letter from Derbyshire County Council Social Services confirming resident's medical condition and their reliance on the mobility scooter.

Planning History

None.

Responses to Consultations

None.

9/2005/1275/FH 9 Gresley Woodlands

Church Gresley



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Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

RSS8:

Joint Structure Plan:

Local Plan: HP13

Planning Considerations

The main issues central to the determination of this application are the impact of the proposal on the amenity of neighbouring properties and appearance within the streetscene.

Planning Assessment

This complex of bungalows have relatively open garden areas to both the front and rear. The proposed extension and shed are to be situated to the rear of the property adjacent to the street. Although the proposal will be clearly visible within the street many of the neighbouring properties have sheds located in similar positions and it is not considered that the proposal will be of any increased detriment to the area or impact on the amenity of the occupiers of the neighbouring properties.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.

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

Informatives:

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.

Item B03

29/9/92

Reg.No. 9/0892/0472/F

Applicant:

Mr. & Mrs. R. Carr,
7, Windsor Avenue,
MELBOURNE,
Derby.

Mr. A. Earp

46 Commerce Street,
MELBOURNE,
Derby DE73 1FT.

Proposal The erection of a first floor extension and a conservatory on the rear of the house at 7 Windsor Avenue Melbourne

Dated 21st August, 1992 Ward : Melbourne

Site description

The property is situated in a line of slightly staggered line of houses. The extension is proposed above an existing single storey attachment to the rear of the dwelling.

Planning History

None relevant.

Responses to Consultations

The Parish Council has no objection to the proposal.

Responses to Publicity

The owners of the adjoining property object to the proposal for the reason that it will block critical light to the south facing living room and bedroom windows, prejudicing the comfortable use and enjoyment of these rooms. The owners have taken a light intensity reading which indicates they would lose up to 80% of the light to their living room.

Structure/Local Plan Policies

Housing Proposal 14 of the South Derbyshire Draft Local Plan seeks to ensure that residential extensions are limited to those which are not unreasonably detrimental to the amenities of adjoining properties.

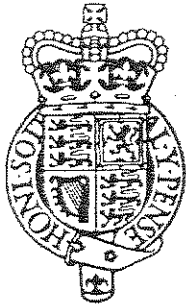
Relevant Planning Considerations

The proposed extension would result in a two storey projection of just over three metres beyond the rear of the main house. The neighbouring property has a single storey extension at the rear which has reduced the amount of light available to the living room, leaving a single flank window as the main source of light to that room. The proposed extension would unacceptably reduce the amount of light reaching that window.

Recommendation

REFUSE permission for the following reason:

Housing Proposal 14 of the South Derbyshire Draft Local Plan seeks to ensure that residential extensions are not unreasonably detrimental to the amenities of adjoining properties. The proposed extension would seriously affect the amenities of the occupiers of the adjoining property by restricting the passage of daylight and sunlight to a principal flank ground floor window, and by unacceptably affecting their outlook.



Appeal Decision

Site visit made on 24 October 2005

by **C S Turner** MA BA MRTPI DipTP DMS

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date

4 NOV 2005

Appeal Reference: APP/F1040/A/05/1185876

Springwood Fisheries, Ashby Road, Melbourne, Derbyshire DE73 1BJ

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is by Mr & Mrs C J Carruthers against the decision of South Derbyshire District Council.
- The planning application that led to the appeal (Council reference 9/2005/0024/F) was dated 4 January 2005 and was refused by a notice dated 15 March 2005.
- The development proposed is: replace temporary amenity buildings with permanent brick and tile construction, to include fishery manager's accommodation.

Summary of the decision: the appeal is dismissed.

Procedural Matters

1. The planning application that led to the appeal was in the name of Mr and Mrs Carruthers, although the appeal was made in the name of Mr Carruthers only. I am therefore proceeding on the basis that the appeal is also in joint names. This will not affect the outcome.

Main Issues in the Appeal

2. The main issue in the appeal relates to the residential accommodation included in the appeal proposals. What has to be determined is whether the intention to include a dwelling for a fishery manager in the largest of the proposed buildings is justified by the needs and scale of the existing business at the appeal site.
3. As well as being in the countryside, the site is in the Green Belt. This means that the acceptability of the proposals also has to be tested against Green Belt policy.
4. It is also relevant that an appeal relating to the erection of a dwelling at this site in connection with a proposed fish breeding enterprise was dismissed as recently as last year (APP/F1040/A/04/1146063; 21 September 2004). Although the Appellants say the current proposals are different from the proposals in that appeal, the inclusion of residential accommodation is repeated and similar considerations apply to that element of the proposals. Another way of looking at the issues in this appeal is, therefore, to explore to what extent things have changed since the last appeal.

Planning Policy

5. The development plan for the area, to which I must have regard, includes the Derby and Derbyshire Joint Structure Plan adopted in 2001. Policy 4 says that away from settlements development will be permitted if it can be shown to be appropriate in such a location and

can be designed and positioned to minimise (any) adverse impact. Policy 6 says that new housing development in areas away from existing settlements will be permitted only if it can be shown to be necessary for the operation of a rural-based activity and that a location outside a settlement is essential.

6. The development plan also includes the South Derbyshire Local Plan adopted in 1998. Housing Policy 8 says that outside settlements new housing development will be permitted provided certain conditions are met. These include that the residential accommodation is necessary to the operation of an established, viable, long term rural based activity and it can be demonstrated that a countryside location is necessary to the efficiency of the activity. The site is to be well related to existing buildings and the size of the accommodation is to be commensurate with the functional requirements of the rural activity to which the dwelling relates.
7. The District Council started to review the Local Plan but because it has been decided not to take the draft plan through to full adoption, the review carries little weight in appeals. In any event it does not seem to me that, as far as this appeal is concerned, the review Local Plan significantly altered the policy context.
8. National guidance on countryside planning and new housing in the countryside is set out in PPS7. My colleague Inspector summarised what this guidance says in his decision of 21 September 2004 and I see no need to repeat it here. It remains current and relevant.

Reasoning

9. Two new buildings are proposed to replace the two existing buildings on the site. The largest proposed building would be a single storey brick structure, about half of which would be used as residential accommodation. This includes an open plan living area, two bedrooms with en-suite facilities and a kitchen (although the kitchen might also be used in connection with the business by providing refreshments for anglers/customers). The largest building would be about twice the size of the main building that is on the site now, which has no living accommodation in it. The smaller of the proposed new buildings would be more than twice the size of the existing store on the site and would include a garage, presumably for a car belonging to the occupant(s) of the larger building. The garage would also provide space for the equipment needed in connection with the business. Thus the two proposed buildings taken together would more than double the extent of buildings on the site, mainly because they would include living accommodation for the site's manager.

Is the Proposed Residential Accommodation Necessary?

10. It is accepted on all sides that there is an existing rural enterprise on the appeal site. It is also agreed that this is a rural site in the countryside outside any settlement. In the normal course of events a new dwelling would not be appropriate in such a location unless it is necessary in connection with the rural enterprise on the site.
11. What is at issue is whether the rural business at the appeal site justifies the erection of new residential accommodation. Unless the business has a functional need for someone to live at the site, the proposals will fail this test. If the functional test is met, it would then be necessary to explore whether the business could support the required level of investment. In these respects the proposed living accommodation is akin to a proposal for an agricultural worker's dwelling on a farm (which might also be incorporated in other farm buildings).

12. Security is stated to be the paramount reason for needing residential accommodation at the site and a letter from the local police is enclosed with the appeal documents. However, this falls short of providing an adequate justification for the proposals for four reasons:
 - (a) PPS 7 says that "the protection of livestock (in this case fish) from theft or injury by intruders may contribute on animal welfare grounds to the need for a new (agricultural) dwelling, although it will not by itself be sufficient to justify one";
 - (b) the letter from the police does not say that having someone live on the site is the *only* way to secure the site or its stock, but only that it is an obvious and practical solution. Other possible ways of improving security are suggested;
 - (c) in any event, there is no evidence that poor security is indeed a problem at this site, that stock have been lost or that the business has been harmed because of poor security;
 - (d) the previous Inspector in 2004 concluded that there was no convincing history of security problems on this site and that constant on-site supervision was not necessary. I have no new evidence that would lead me to a different conclusion.
13. The Appellants reject other possible methods of improving security at the site, partly because they say that the turnover of the business could not support them. However, the proposed new residential accommodation would not be cheap. One is therefore forced to wonder, without any financial evidence in support of the proposals, whether the new buildings can be justified for purely business reasons.
14. It also said that supervision is needed on the site throughout the day and night, every day of the week because of night fishing and to monitor conditions in the lakes. However, both these activities already take place and it is not at all clear on what basis it is claimed that a permanent residential presence is essential now when it has not been in the past.
15. I conclude that it has not been established that it is necessary for there to be a permanent residential presence on this site in connection with the existing business.

The Existing Buildings on the Site

16. The Appellants draw attention to the state of the main existing building on the site, which they say is temporary and in a poor condition. Since the appeal was lodged, planning permission has been granted for a further period during which this building may be retained. However, it may well be the case that this temporary building may need to be replaced in the foreseeable future. In principle there may be no objection to a "like for like" replacement. However, this is not what is before me to determine and I make no definitive statement on this matter one way or the other.
17. In any event, what is causing particular problems for the Appellants in relation to their current proposals is their wish to replace the existing building with a permanent brick structure and to increase its size in order to accommodate a dwelling. The poor condition of the existing building does not justify such a change in the size, nature and use of the buildings on the site. This is true even if what is proposed is no more of an intrusion into the countryside than the existing building.

18. It would, of course, be open to the Appellants to repair and renovate the existing buildings and to continue to use them as they do now. However, they say the cost of such renovation is impractical. It is not clear what they mean when they say this. Do they mean that renovation would cost more than the proposed new building now proposed? Without some evidence I find this hard to believe. Do they mean that the cost of renovation could not be met from the turnover of the business? If this is so, the financial viability of the appeal proposals must also be in doubt.
19. I conclude that the existing buildings on the site and their condition do not justify what is now proposed.

Would the Business be Able to Afford the Proposed Buildings?

20. I do not doubt that angling is a popular and attractive pastime. (Even in pouring rain on a Monday morning I was surprised and impressed to find that there were anglers enjoying the facilities at the appeal site.) I also note that several organisations support the Appellants' wish to improve the facilities at the appeal site.
21. However, what is entirely lacking is any financial information to demonstrate that the turnover of the business is (or could be) sufficient to support the level of investment that would be needed to fund the appeal proposals. Like the previous Inspector in 2004, I accept that the need for such a financial justification is of no practical importance as long as the functional test fails to prove it is necessary to have living accommodation on this site. I therefore do not pursue the matter further.
22. Even so, the Appellants should realise the importance of what is being said here. The risk is that, if the business cannot support the level of investment that would be needed, then at some time in the future the business could fail. Or, alternatively, when the Appellants come to retire and wish to dispose of their assets they may be unable to find a buyer who wishes to carry on the business. In such circumstances, there would be an isolated building (including a dwelling) in the countryside next to attractive lakes. The only viable future for the site might then be a residential one and it would be relatively easy to convert the whole building to a dwelling.
23. I do not say the Appellants have such an intention in mind. But they must realise that the stringent national and local planning policies are designed to make such outcomes less likely.

Other Examples Elsewhere

24. The Appellants refer to several other sites where they claim similar circumstances have led to living accommodation being permitted. However, even if they were right and the cases are comparable, this would not mean that their proposal complied with current policy and government guidance or that an operational need for this particular living accommodation had been proved. In any event, without much more information it is not possible to know to what extent the other cases referred to are in fact comparable to the appeal proposals. For example these are some of the considerations that may explain why different sites have been treated differently:

- (a) the relevant local planning policies in the area where planning permission has been granted may be different;

- (b) the stringent national or local policies may have changed since planning permission was granted;
 - (c) there may have been living accommodation already on the site (as the Council says there was in one of the local cases referred to), so that the permitted residential development amounted to a replacement;
 - (d) existing buildings may have been used and/or refurbished;
 - (e) the nature of the operational need that justified the proposal may not have been comparable to the one relied on at this site;
 - (f) the scale of business and activity involved and its turnover may have been large enough to support the proposed investment in a dwelling;
 - (g) all the sites may not have been equally rural in character.
25. These are some of the considerations that need to be taken into account before deciding that one case compares to another fairly and squarely. It is not enough to say that because one "fishery business" has been granted planning permission for a dwelling, another one must too. In the same way it would not follow that because a large farm breeding livestock needed a dwelling, a smaller one with livestock on it (but where there was no breeding) would need a dwelling too. But even if all other things were equal, it might be that – in the light of experience – a previous decision was a mistake. Would it follow that the same mistake should be repeated forever? Two wrongs do not make a right.
26. For these reasons I conclude that the other examples referred to by the Appellants do not amount to a convincing case for allowing their proposal or indicate they are being treated unfairly.
27. This is true whether or not the previous Inspector at this site had all the information before him that has now been supplied to me.

Green Belt

28. The site is in the Green Belt. Without the proposed living accommodation being justified (functionally and financially) as part of the rural business and leisure activities on the site, the appeal proposals would be inappropriate development in the Green Belt. The openness and character of the Green Belt would be harmed by the increase in the amount of building on the site and the introduction of a residential use. The residential use could result in the creation of a garden and the domestication of the site to the further detriment of its open and rural character. None of the circumstances of the site and these proposals would justify the resultant harm to the Green Belt.

Visual Impact and Design

29. Like the previous Inspector in 2004, I accept the appeal site is reasonably well screened. But like the previous Inspector I also say that this is not a sufficient reason to allow new and isolated residential development in the countryside.
30. I note that the Melbourne Civic Society objects to the adequacy of the submitted plans and the proposed design. Whilst I have some sympathy with their views, I am concerned primarily with the principle of the proposed development in this decision.

Other Matters

31. The Appellants say that the Council has refused planning permission for the current proposal on the back of the previous appeal but that the current proposals are completely different. However, the issues, especially in relation to the proposed residential accommodation, are much the same in the two appeals. Like the Council, I consider that there are not sufficient reasons or new information for there to be a different outcome.

Conclusions

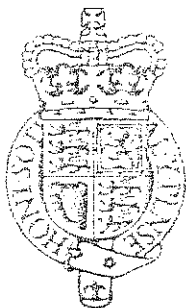
32. I conclude that the need for residential accommodation at the appeal site has not been substantiated and that the appeal proposals would therefore lead to the introduction of an unnecessary residential use in this isolated and rural location. This would harm the rural character of the area and conflict with local and national planning policies for the countryside and the Green Belt.
33. For the reasons given above and having regard to all the other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

34. I dismiss the appeal.

C. S. Turner

INSPECTOR



Appeal Decision

Site visit made on 4 October 2005

by **Bruce Barnett BA MCD MRTPI**

an Inspector appointed by the First Secretary of State

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Date **14 OCT 2005**

Appeal Ref: APP/F1040/A/05/1185338

Land adjoining 15 Main Street, Linton, Swadlincote, DE12 6PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Jakeman against the decision of South Derbyshire District Council.
- The application Ref 9/2005/0246/F, dated 24 February 2005, was refused by notice dated 25 April 2005.
- The development proposed is the erection of a 2 storey detached bungalow with garage.

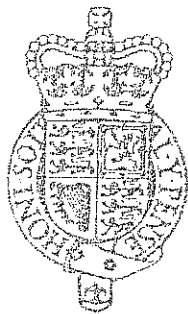
Decision

1. I dismiss the appeal.

Reasons

2. Two plans submitted with the appeal illustrate how a small dwelling could be placed on the site. In one, no provision is made for vehicles to turn around. The other purports to show how a vehicle emerging from an integral garage could turn around within the site. This manoeuvre seems likely to be hampered by any car parked at the side of the adjacent house. In addition, it would involve driving onto land not in the appellant's ownership. Although I am told that there is a right of access over this land, the continued existence of such a right cannot be guaranteed or enforced by planning powers. Because of the limited area within the appellant's ownership and control, there is a substantial risk that cars associated with the proposed dwelling would be reversed into or out of the site.
3. Main Street is a classified road. Some of the older properties there lack a proper on-site turning facility. However, it would be wrong to allow a new dwelling to be built without such a facility and I am not convinced that it would be possible to provide it here. The development would be likely to add to the number of vehicles reversing onto and off Main Street. In addition, visibility at the access is restricted by the alignment of the road. Because of these factors, the development is likely to increase significantly the risk of accidents occurring at the access, adding to the risks arising from its existing use. This would be inconsistent with the aims of Transport Policy 6 in the South Derbyshire Local Plan. The other developments cited by the appellant do not alter my view on this matter.
4. The development is also likely to harm the living conditions of neighbours. The illustrative plans show a building very close to the rear gardens of the houses to the north and a two storey dwelling in this position is likely to have an unacceptable oppressive and dominating effect on the outlook of residents there.


INSPECTOR



Appeal Decision

Site visit made on 4 October 2005

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the First Secretary of State

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Date 21 OCT 2005

Appeal Ref: APP/F1040/A/05/1184818

Farm land adjoining Cuttle Bridge Cottage, Derby Road, Swarkestone, Derbyshire DE73 1JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr N Hodgkiss against the decision of South Derbyshire District Council.
- The application ref: 9/2005/0168/U, dated 10 February 2005, was refused by notice dated 20 April 2005.
- The development proposed is the change of use of the land into a drive and garden.

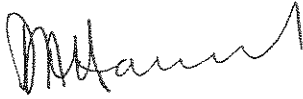
Decision

1. I dismiss the appeal.

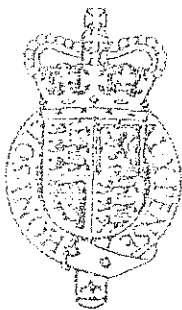
Reasons for the decision

2. The main issue in the appeal is the effect of the change of use on the character and appearance of the land.
3. The land is in the countryside and Environment Policy 1 (EP1) of the South Derbyshire Local Plan is applicable. It indicates that development should not be permitted in the countryside unless (i) it is essential to a rural-based activity or (ii) it is unavoidable and (iii) the character of the countryside is safeguarded and protected.
4. The land is on the fringes of a large field, which is in arable use. However, the majority of the land is not cultivated at present and appears to be poorly drained. There is a well-established line of trees and other vegetation on the boundary between the land and the curtilage of the Cottage. This boundary is about 55m long.
5. The proposed development would not be associated with a rural activity and the Cottage is not short of garden space. The existing access is near the junction with the A514 and the proposed access would have the advantage of being further away, but it would still not meet current access standards and more land would be taken than would be needed simply to reposition the access. The development would satisfy neither criterion (i) nor criterion (ii) of EP1.
6. The land is open to view from Weston Road and the trees and other vegetation between it and the curtilage of the Cottage are a well-defined boundary between residential development and open countryside. It would be many years before comparable vegetation grew on the new boundary and the drive would always be visible from the access point. There would be a long-term change in the appearance of the land that would harm the character of the countryside. Criterion (iii) of EP1 would not be met.

7. The fact that the majority of the land is of little use as farm land does not justify development contrary to EP1. No considerations arise in the appeal that would indicate that EP1 should not be applied and I conclude that permission should be withheld.



INSPECTOR



Appeal Decision

Site visit made on 4 October 2005

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the First Secretary of State

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Date

Appeal Ref: APP/F1040/A/05/1185356

62 Mount Pleasant Road, Castle Gresley, Swadlincote, Derbyshire DE11 9JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr T J Gill against the decision of South Derbyshire District Council.
- The application ref: 9/2005/0065/FH, dated 11 January 2005, was refused by notice dated 18 March 2005.
- The development proposed is the formation of an access.

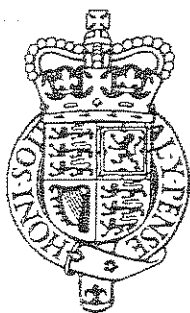
Decision

1. I dismiss the appeal.

Reasons for the decision

2. The access would enable a parking space to be provided in the front garden. Because the garden has a shallow depth, it would only be possible to park the smallest of cars at a right angle to the road. Parking parallel to the road is therefore proposed and a 6.6m-wide footway crossing would be constructed to facilitate the manoeuvre that would be required. Parallel parking already takes place next door at No 60.
3. As the appellant points out, Mount Pleasant Road is wide, visibility is good and traffic is light and slow moving. The manoeuvres required to park parallel to the road should not bring drivers into conflict with other vehicular traffic.
4. There would, however, be more significant implications for pedestrians. The footway crossing would be more than twice the normal width for a domestic drive and manoeuvres would take place on the footway when drivers were reversing on to or off the parking space. This would be detrimental to the safety and convenience of pedestrians, particularly children and the less able. The parking arrangements at No 60 would make matters worse for pedestrians because manoeuvres would be taking place over a longer section of footway.
5. The provision of off-street parking spaces often brings highway benefits. However, roadside parking can take place here without interrupting the flow of traffic or giving rise to significant safety issues. There would be insufficient compensating benefits to outweigh the harm that the proposal would cause to the safety and convenience of pedestrians, and I conclude that planning permission should be withheld.

INSPECTOR



Appeal Decision

Site visit made on 24 October 2005

by **C S Turner MA BA MRTPI DipTP DMS**

an Inspector appointed by the First Secretary of State

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Date

27 07 2006

Appeal Reference: APP/F1040/A/05/1185177

Land adjacent to 51 Pool Street, Church Gresley, Swadlincote DE11 8EE

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is by Mr V Collier against the decision of South Derbyshire District Council.
- The planning application that led to the appeal (Council reference 9/2005/0269/F) was dated 26 February 2005 and was refused by a notice dated 29 April 2005.
- The development proposed is the erection of a detached four-bedroom dwelling.

Summary of the decision: the appeal is dismissed.

Main Issues in the Appeal

1. The main issues in the appeal are;
 - (a) whether, in view of the surroundings, the site is suitable for a new house;
 - (b) whether the family circumstances of the appellant warrant allowing a new house here.

Planning Policy

2. When it refused planning permission for this proposed new house, the Council referred to policy ENV 15 in its emerging Local Plan. This policy is concerned with the location of developments that generate noise, although the draft Local Plan also referred to the undesirability of locating new housing close to existing sources of noise. However, the Council is not pursuing this Local Plan through to adoption and this limits the weight it has in appeals.
3. The Council has not referred to any other development plan policies or documents. Nevertheless, noise is a material consideration in planning decisions and there is government guidance on it in PPG24. This says that sensitive developments, such as housing, should not be built in locations that are subject to noise.

Reasoning

4. The proposed site of the new house is behind the existing house in which the appellant's parents live. The land rises behind the existing house and it not clear to what extent it is intended to lower the site to accommodate the proposed house. But I do not doubt that it would be possible to build a house in the position applied for.
-

The Surrounding Area

5. There are factories to the north and south of the appeal site. To the north there is a factory on the top of the slope (steep embankment) above the appeal site. To the south, on the other side of the existing house and across the road, is another factory. Both these premises appear to be engaged in pottery manufacture and/or storage. To the west there is an area of apparently unused open land and to the east there is an area where clay for use in the potteries is stored in the open.

Noise and Pollution

6. The Council says the existing factories are necessarily noisy. The factories have been established as potteries for a long time and there are no planning restrictions on how they operate, for example there are no restrictions on working hours.
7. The Council are supported in this by the company operating the pottery across the road from the appeal site. The company says that pottery manufacture uses continuous industrial processes that may give rise to noise throughout the day or night. They also point to the potential noise and disturbance that can arise from traffic to their site and factory shop. They also say that the open storage of clay can lead to mud and dust in the surrounding area. The industrial site and processes are currently being reorganised and this may bring some of the sources of noise and disturbance even closer to the appeal site.
8. The appellant does not dispute any of this. However, it is clear that the appeal site is in the midst of an industrial area and, as I heard during my visit to the area, there is industrial noise. The noise and the disturbance it causes are likely to be even more noticeable and intrusive at night. It is also true that there is open storage of clay close to the appeal site and this may also cause problems for future residents of the proposed house. I consider this is an industrial rather than a residential environment and location.
9. I conclude on the first issue in the appeal that, in view of the surroundings, the site is not a suitable location for a new house.

Personal Circumstances

10. The appellant says the family wishes to live near their parents who live in the existing house. They also have other personal and family reasons for wanting to move there. I suppose it could also be said that, even if the surroundings are not ideal, the appellant knows what he is letting himself and his family in for.
11. I am sympathetic to all these considerations. However, the new house is likely to remain on the site for a long time – long after the particular family circumstances that are under consideration now have come to an end and perhaps after the appellant and his family have moved away to live elsewhere. In such situations, government guidance indicates that it would be wrong to allow temporary personal and family considerations to outweigh the planning merits (or shortcomings) of permanent development.
12. This is perhaps especially the case when future occupants could seek to place new and unreasonable constraints on the full and proper use of the adjoining industrial premises.

13. I therefore conclude that the family circumstances of the appellant do not warrant allowing a new house on the appeal site.

Other Matters

14. The owners of the neighbouring factory say they are concerned that some land they consider to be theirs has been shown as belonging to the appellant's family on the appeal plans. This is a matter to be settled by the respective landowners and is not something that I can or should resolve as part of the planning appeal process. In any event, the disputed land is not in the appeal site itself and I consider that its ownership would not affect the outcome of the appeal one way or the other.

Conclusions

15. For the reasons given above and having regard to all the other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

16. I dismiss the appeal.

C.S. Turner

INSPECTOR

