

DEVELOPMENT CONTROL COMMITTEE – 18 November 2003

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

REPORT OF THE PLANNING SERVICES MANAGER

1. Planning Applications

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

1. The issues of fact raised by the Planning Services Manager's 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 Planning Services Manager, 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

18/11/2003

Item 1.1**Reg. No.** 9 2001 1185 R

Applicant:
 Mrs J M Hunt & Mrs E A Toon
 Holly Cottage
 Chevin Road
 Belper
 Derbys
 DE562UN

Agent:
 Mrs J M Hunt & Mrs E A Toon
 Mrs J M Hunt & Mrs E A Toon
 Holly Cottage
 Chevin Road
 Belper
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 DE562UN

Proposal: **The renewal of planning permission 9/0995/0459/O for the residential development of land at 7a Pinfold Lane Repton Derby**

Ward: **Repton**

Valid Date: **13/12/2001**

Site Description

The site comprises the garden to 7A Pinfold Lane, the site of former workshops and an area of woodland. It is bounded by Repton brook to the south west and the woodland is subject to a Tree Preservation Order. The existing access to the site is from Pinfold Lane via a narrow private drive

Proposal

The applicant seeks to renew planning permission 9/0995/0459/O. Although that permission has now expired the applicant applied to vary the condition before the date of expiry. Access to the site would be across a small piece of public open space of Pinfold Close. A public footpath crosses the site close to the brook. The reason for the delay in bringing the matter to Committee for consideration is because changed policy circumstances have caused the applicant to commission a flood risk assessment.

Applicant's Supporting Information

A flood risk assessment has been supplied, which recommends various measures in this regard.

Site History

Outline permission was granted in 199 subject to a section 106 Agreement requiring that part of the woodland between the public footpath and the brook to be brought into an appropriate state and handed over to the Council as public open space. The application was subject to significant local opposition. Following the grant of planning permission the applicant failed to secure the

agreement of the Council as landowner to gain access to the site across the public open space at Pinfold Close. A copy of the previous report is attached.

Responses to Consultations

The Parish Council refers to its previous objections and has nothing to add.

The Highway Authority and Severn Trent Water Limited have no objection in principle.

The Environment Agency has no objection subject to conditions.

Responses to Publicity

Three letters have been received objecting as follows:

- a) Previous objections still stand.
- b) There would be increased flooding. In Autumn 2000 a garden opposite the site was seriously flooded and water came close to the house.
- c) Thus is one the few areas of the village where there are trees and wildlife.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Policy H5.

Draft Local Plan Policy H1

Planning Considerations

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

- The principle.
- Residential amenity.
- Highway safety.
- Flooding.
- Trees.

Planning Assessment

At the time of the application the site benefited from an extant permission. It is within the development boundary of a serviced village. Whilst the site has a mainly vegetated appearance and the old workshops have been demolished, this has been a by-product of obstacles to development that the applicant has experienced in the interim. Therefore that part of the site covered by the bungalow and its outbuildings and the old workshops and their curtilage are previously used land for the purposes of Policy H1 and PPG3. That part of the site covered by the Tree Preservation Order has a more long-standing natural character and can be regarded as green field land. Therefore development on the site excepting the woodland is acceptable in principle.

The site is capable of accommodating a layout that meets supplementary planning guidance on space about dwellings. There would thus be no demonstrable harm to residential amenity.

On the advice of the Highway Authority the proposal would not be detrimental to highway safety.

The Environment Agency has affirmed the findings of the flood risk assessment and the proposal would therefore not result in demonstrable harm in this regard.

A condition precluding development within the area covered by the Tree Preservation Order would safeguard the trees. The Section 106 agreement would ensure proper management of the woodland, prior to it being handed over.

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 a deed of variation to secure the provisions of the section 106 agreement attached to permission 9/0995/0459, and the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
(b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.
1. Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the siting, design and external appearance of the building(s) the means of access thereto and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. The details required pursuant to Condition no. 2 above shall include a plan at a scale of not less than 1:500 showing the position, species, canopy, spread and height of all trees within the site, indicating those to be retained and those proposed for felling. The plan shall also show the proposed siting of all proposed buildings, existing and proposed ground levels and the position and depth of all sewers, drains and services.
3. Reason: To ensure that important trees are retained.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
4. Reason: In the interests of the appearance of the area.

5. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms three cars, in any other case two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces (in the case of dwellings with four or more bedrooms) or two parking spaces (in any other case), measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.
5. Reason: To ensure that adequate parking/garaging provision is available.
6. No development shall commence until details of the junction of the new estate street with Pinfold Close, including details of any consequential effects on existing highway retaining structures or of any necessary new structures have been submitted to and approved in writing by the Local Planning Authority.
6. Reason: In the interests of highway safety.
7. The internal road layout shall accord with the County Council's Roads in Housing design guide.
7. Reason: In the interests of highway safety.
8. There shall be no direct access to Pinfold Lane unless as may otherwise be approved in writing by the Local Planning Authority.
8. Reason: In the interests of highway safety.
9. No development shall commence until details of a positive means of highway surface water drainage disposal to an acceptable outfall have been submitted to and approved in writing by the local planning authority.
9. Reason: In the interests of highway safety.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no dwellings and no buildings gates, walls, fences or other means of enclosure shall be erected within the 1 in 100 year flood plain identified in Julia Williams' flood risk assessment report (February 2003) without the prior written approval of the Local Planning Authority.
10. Reason: In the interests of flood prevention
11. No dwellings shall be erected within the land shown hatched on the attached plan.
11. Reason: The land is not brownfield in the terms of PPG3
12. No work shall take place on the site until details of a scheme for the disposal of surface 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.
12. Reason: In the interests of flood protection.

13. Before development begins a scheme for compensatory flood food storage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved detail prior to the first occupation of the development.

13. Reason: In the interests of flood control.

Informatives:

The Environment Agency recommends the incorporation of flood proof construction methods for the new dwellings.

18/11/2003

Item 1.2**Reg. No. 9 2002 0802 L****Applicant:**Church Commissioners
Foremark Estate**Agent:**S. Spencer
Smiths Gore
Brooke House
24 Dam Street
Lichfield
Staffs
WS13 6AB**Proposal: The conversion of a redundant farm buildings to residential use at Ridgeway Farm Mount Pleasant Road Repton Derby****Ward: Repton****Valid Date: 07/08/2002**

The parallel planning application is reported elsewhere in this agenda (application 9/2002/0810).

Recommendation**GRANT LISTED BUILDING CONSENT** subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of five years from the date of this consent.
1. Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
2. This permission shall relate to the amended drawings, nos 508L/01 Rev1 508/9, 508/8, 508L/02, 508L/03, 508L/04, 508L/05, 508L/07 received on 12 September 2003, 13 August 2003, 18 May 2003 showing in particular:
 - a. number of dwellings reduced from three to two
 - b. further elevational details
 - c. joinery details.
2. Reason: To safeguard the character of the listed curtilage buildings.
3. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

3. Reason: The details submitted are inadequate to determine whether the character of the listed curtilage would be safeguarded.
4. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.
4. Reason: To safeguard the character of the listed curtilage buildings.
5. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
5. Reason: To safeguard the character of the listed curtilage buildings.
6. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
6. Reason: To safeguard the character of the listed curtilage buildings.
7. Windows shall be single glazed unless otherwise agreed in writing with the Local Planning Authority.
7. Reason: To safeguard the character of the listed curtilage buildings.
8. 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.
8. Reason: To safeguard the character of the listed curtilage buildings.
9. 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 in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".
9. Reason: To safeguard the character of the listed curtilage buildings.
10. A sample panel of pointing 1 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing.
10. Reason: To safeguard the character of the listed curtilage buildings.
11. Notwithstanding the particulars of the application, revised details of the openings to unit 2 hatched red on the attached plan shall be submitted for approval in writing by the Local Planning Authority prior to the commencement of building operations. The joinery and form of the openings shall be implemented in accordance with the approved details.
11. Reason: To safeguard the character of the listed curtilage buildings.

18/11/2003

Item 1.3**Reg. No.** 9 2003 0165 F**Applicant:**

Wm Morrison Supermarkets PLC
 And Tapton Estates Ltd
 Hilmore House
 Thornton Road
 Bradford
 West Yorkshire
 BD89AX

Agent:

Race Cottom Associates Ltd
 Vincent House
 Solly Street
 Sheffield
 S14BB

Proposal:

The erection of a food retail store, car park, raised carpark, petrol filling station, car wash (car wash and petrol filling station to be located between Derby Road and Hill Street) and associated engineering works together with the conversion of offices to two houses at the former Wraggs Pipes Hepworths Coppice Side Swadlincote

Ward:

Swadlincote

Valid Date: 13/02/2003**Introduction**

The application was reported to Development Control Committee on 17th June 2003 where members resolved to grant planning permission subject to a s106 agreement, concluded by the Legal and Democratic Services Manager, and subject to the conditions set out in the committee report. Members also resolved (inter alia):

"That further investigation be made into the possibility of providing a roundabout on Derby Road as an alternative to traffic lights."

The purpose of this report is to inform Members of a Supplementary Highway Note and Comparison of Traffic Signal Junction and Roundabout received from the Applicant. In view of the Committee resolution to grant permission the only matter that can be debated at this stage is the merits of a roundabout on Derby Road as opposed to traffic lights.

Applicants' supporting information

A Supplementary Highway Note has been received from the Applicant's Highway Consultant which makes the following points:-

The roundabout option has been discounted for several reasons, namely:-

- The roundabout would not provide adequate deflection as defined in TD16/93 'The Geometric Design of Roundabouts'. This mandatory requirement is a safety feature which is intended to control the speed at which vehicles can enter a roundabout junction thereby reducing the risk of conflicts occurring or vehicles losing control within the circulatory carriageway. In the absence of satisfactory deflection being provided, a roundabout would not comply with a safety audit and hence would be unlikely to meet with the approval of the Local Highway Authority.
- As a result of the existing gradients of Derby Road, Hill Street and Frank Bodicote Way in the vicinity of the staggered junctions, it would be difficult to achieve acceptable roundabout geometry without significant reshaping of the approach roads. This reshaping would have a significant impact upon land adjacent to these roads. Furthermore, the carriageway will be realigned closer to the existing properties adjacent to these roads. Furthermore the carriageway will be realigned closer to the existing properties at 16-22 Hill Street and necessitate retaining walls being constructed adjacent to these properties.
- A roundabout junction will have little future 'life' for accommodating 'natural' traffic growth and future development aspirations in this area. Within a short time of opening increasing queues are likely to develop on all approaches to the junction particularly during peak demand periods.
- A roundabout junction offers no controlled protection for pedestrians and cyclists crossing the major or minor roads.

The traffic signal scheme:-

- The junction would operate under a 'MOVA' (Microprocessor Optimised Vehicular Actuation) system. This is an auto-adaptive system of traffic signal control which responds dynamically to changes in vehicle demand on all approaches to the junction. It is a self-optimising system which continuously monitors traffic demands on all approaches and adjusts the stage timings to maximise capacity and minimise delays. Hence, if traffic demands on any particular approach to the junction are high, the MOVA controller will adjust the staging of the signals to accommodate these higher demands.
- To achieve this, detection loops are positioned at distances determined from cruise speed measurements undertaken in advance of the installation. These detection loops are so positioned as to allow the microprocessor to monitor the vehicle demands and continuously adjust and fine tune the junction's operation 'in real time'.
- As a further safety feature the junction will incorporate anti-skid surfacing on its road approaches; the length of which will be dependent upon the speed of vehicles approaching the junction.
- Controlled pedestrian and cycle crossing facilities will be provided within the junction to ensure the safety of these users, particularly during period of high traffic demands.
- By virtue of the junction geometry, there will be little or no road widening in the vicinity of existing properties on Derby Road. Furthermore, the existing gradients of the roads approaching the junction are satisfactory to accept traffic signal control. Hence, no reshaping of the carriageway will be necessary to accommodate the signal control.
- Advanced cycle stop lines will be provided to assist cyclist use of the junction.
- During quiet periods the signals will be staged such that they will change to green before a vehicle reaches them, thereby removing the need for the vehicles to stop and start at the junction line.

- The traffic signal junction option will have adequate spare capacity to accommodate future 'natural' traffic growth and the Council's development aspirations in the area.
- The Highway Authority has raised no objection to the traffic signal improvement of these junctions to serve the proposed development and existing traffic levels.

The design, installation and future operation of the traffic signals will be undertaken by the Highway Authority, the design and installation will be regulated by a s278 Agreement between the Highway Authority and the Developer. Once operational the Highway Authority will become responsible for the future operation and maintenance of the traffic signals to ensure they are operating at peak efficiency during all times of the day. The Highway Authority will be able to adjust the operation of the signals to accommodate future changes in traffic demands using the junction.

The Applicant's Agent has also produced a comparison of the signal junction and roundabout solutions:-

1. Traffic signal junction solution

It is proposed that the new Petrol Filling Station (PFS) is located in the triangle of land formed between Derby Road and the new access road. The layout of the PFS in this location is designed as a split level arrangement which allows it to be set into the existing ground contours thus minimising its visual impact on the surrounding area whilst maintaining points of ingress and egress at the different levels off the new access road.

This arrangement means that the development can be contained within a minimal area and at a reasonable distance from the existing houses and site boundaries generally, allowing the introduction of generous areas of landscaping to the perimeters and to the most prominent areas of the site.

It is also intended to provide a 'Welcome to Swadlincote' sign within the landscaping which will create an attractive approach into the town centre from Derby Road.

2. Roundabout solution

A roundabout junction requires a much greater land take in order to achieve a satisfactory layout. This causes the junction to be pushed very close to existing houses and closer towards the boundary of the Ski Centre.

In addition, the level of the PFS forecourt would need to be set down somewhat from the level of the adjacent Ski Centre in order to ingress and egress from the new access road. The result would be the need to provide significant retaining walls between both the PFS forecourt and the Ski Centre and between the existing row of houses and the new roundabout. A new 2.5 metre high retaining wall would be required approximately 6 metres away from the nearest property.

It is also envisaged that whilst a roundabout solution looks achievable on plan, it will be extremely difficult to link the new highways into the existing road network and still maintain acceptable crossfalls and gradients on the new roads and footpaths.

In order to achieve a workable PFS layout the existing point of vehicular entry into the Ski Centre car park has also been lost and another entrance would have to be formed further up

Derby Road. It is envisaged that this would be difficult to achieve given the existing level of the car park in relation to the gradients on Derby Road.

Responses to Consultations

The County Highway Authority has been consulted with respect to the additional information received and their response will be reported verbally at Committee. They have previously commented on a plan and letter submitted by the Applicant indicating a roundabout on Derby Road and made the following comments:-

The Applicant raised concerns over capacity and safety. It considers the capacity to be a little tenuous given that there will be the potential on any scheme of this nature for generated traffic to result in additional queues and delays on the network. In this case the extent of any problems will also be dependent, inter alia, on traffic reassignment to the new store and the relative effect of custom transferring from the existing Sainsbury and Lidl stores to the west.

There are issues relating to safety, particularly in respect of the lack of satisfactory deflection for eastbound traffic. It agreed that, within the land shown to be available, a roundabout is not the best solution.

Responses to Publicity

The occupiers of the dwellings at 16-22 Hill Street have been notified and a site notice has been posted informing people of the additional information received and any comments received will be reported verbally at Committee.

Planning Assessment

The additional information submitted establishes that a roundabout rather than traffic signals would not have adequate deflection, would require road reshaping and realignment resulting in a serious detrimental impact on the occupiers of Nos. 16 to 22 Hill Street, would have little future life and would not offer protection for pedestrians and cyclists. Conversely the information states that; the traffic signals could be operated flexibly, the scheme would incorporate anti-skid surfacing, no reshaping of the road would be necessary, advanced cycle stop lines would be provided, there would be spare capacity and the Highway Authority has no objection.

Significant negotiation has occurred with the Applicant concerning the original scheme, incorporating the signals, to ensure that the petrol filling station levels are acceptable, that the boundary treatment forms an attractive urban edge to the town and that the impact on the occupiers of the neighbouring dwellings and Conservation Area is minimised. On the plan submitted the roundabout would only be 10-12 metres away from the nearest dwellings and at a significantly higher level than the dwellings. It is considered that a roundabout in this location would be overbearing and have a detrimental impact on the amenity of the occupiers of these dwellings. A roundabout would also have an adverse impact on the character and appearance of the Conservation Area rendering it by far the poorer option.

Recommendation

That in view of the additional information received the Committee accepts the original proposal to have a signalised junction on Derby Road to be implemented in accordance with the details submitted in the Supplementary Highway Note and subject to a condition to secure such..

18/11/2003

Item 1.4**Reg. No. 9 2003 0924 D****Applicant:**

Miller Homes East Midlands
Cedar House
Ashbourne Road
Derby
DE22 3FS

Agent:

Miller Homes East Midlands
Cedar House
Ashbourne Road
Derby
DE22 3FS

Proposal:

The erection of 14 two storey dwellings on Land To The South Of Hilton Road Etwall Derby

Ward:

Etwall

Valid Date:

25/07/2003

Site Description

The site comprises an area of degraded pasture that falls within in an area previously used by Mitchells to demonstrate equipment that they sold or dealt in. The new dwellings on Old Station Close lie to the north of the site and the rear gardens of dwellings on The Bancroft lie to the east. The former rail test track forms part of the west boundary and there is no boundary to the south of the site. Within the application site is a raised area upon which some trees are located. These trees would be lost if the submission of details of the development were accepted.

Proposal

They are a mix of single and 2 storey dwellings with the 3 storey buildings adjacent to the former railway line. Ground levels would be lowered at the west side of the site to compensate for the loss of existing flood plain that would arise from this proposal. The land to be lowered lies within the floodplain but is some 1.25 metres above the level where the waters reach when the adjacent lower areas flood.

Applicants' supporting information

The proposals were originally for 14 dwellings to be erected but this has been amended to 16 at the request of the Authority to increase the density of the development.

Planning History

Outline planning permission for the site exists with a Section 106 Agreement requiring contributions towards the replacement of the leisure facilities at John Port School. This would contribute £12,000 towards the project. The adjacent dwellings to the north were granted outline planning permission in the 1990's following the grant of permission at appeal.

Responses to Consultations

Etwell Parish Council has no objection to the proposal but would like to see a contribution towards low cost housing from the site.

The County Highways Authority requirements for the site have been met in the amended plans and subject to conditions, there is no objection.

Severn Trent Water has no objection subject to drainage details being submitted for approval.

The Environment Agency has submitted a holding objection pending the assessment of the suitability of the flood compensation measures proposed by the applicants. Subject to this being satisfactory then there would be no objection subject to conditions.

The applicants are confident that the Environment Agency has accepted the principle of the proposals for flood compensation measures and has asked that this submission be reported to the Committee pending the outcome of the Environment Agency investigation. The Environment Agency anticipates that its comments will be available in time for the meeting. If favourable the Committee would be free to determine the application. If not then the application would need to be determined at a subsequent meeting.

The Environmental Health Manager has no comment.

Responses to Publicity

5 letters from 4 households have been received objecting to the development for the following reasons: -

- a) Old Station Close is located off the A516 that is only subject to the 60mph national speed limit. It would be dangerous to locate more houses here.
- b) There is no provision to access the proposed cycle track that is part of the proposed national millennium network. Is it possible to make such provision.
- c) Has the reduction in the floodplain been taken into account? Since the new houses were built, the gardens to dwellings on The Bancroft have flooded and that never used to happen. The potential for flooding and waterlogging could prejudice the future sale of houses both old and new. If people have to alter their gardens because of this, then compensation should be payable. People want to be advised of the situation.
- d) The village does not need 14 luxury homes
- e) The land has and always will be subject to flooding. Most people's gut reaction is that this is not right especially when global warming and rising water levels are taken into account.
- f) The application documents state that no trees are to be felled. This is not the case, there are clearly trees on the higher ground that is to be lowered, so those 20 trees would be lost.
- g) There are also trees on the other boundary that are to be retained as part of the proposals. These trees should be reduced in height as if they are left between houses, then they would be much more difficult to fell or deal with in the future than they are now. The developers should be required to reduce the height of these trees to a more manageable height.
- h) If trees are felled, then there may be a problem with clay shrinkage and damage to existing foundations to houses.
- i) New trees have self-set on the land since it stopped being regularly used by Mitchells. These have affected television reception and should be removed or properly managed.
- j) There is a sense of being boxed in by the new dwellings with privacy being invaded especially at the bottom of the gardens. The rear gardens of the new dwellings should be made longer.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5

Emerging Local Plan: H1 & ENV 21

Planning Considerations

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

- The impact on the floodplain
- The impact on neighbours
- The impact on trees

Planning Assessment

The principle of the development has been established by the grant of outline planning permission so the issues of the flooding and other principle matters are not for consideration as part of this submission.

The number of houses proposed on the site now stands at 16, thus improving the density as well as the mix of houses available for sale in the village. The distances between the proposed dwelling and the existing ones more than comply with the standards set out in the Council's Supplementary Planning Guidance. The style of the dwellings is acceptable, as are the proposed materials of construction. There would be no grounds for refusing consent on this ground.

This proposal lies wholly within the area identified in the application site for development and flood compensation thus, there are no grounds to refuse the application for the approval of reserved matters for this reason. This is subject to the Environment Agency being satisfied that the flood compensation measures, already submitted by the applicants are acceptable (see comments in 'Responses to Consultations' above).

Although the application documents state no trees are to be felled, the community is aware that trees would be lost. The trees in question are self-set and of no particular merit and would not warrant a tree preservation order. The dominant landscape feature is the hedge and trees alongside the former railway line that provides a substantial boundary to the village which would not be affected by this 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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. V/08/1/1/E and house type Rydale and Nevis in addition to those originally submitted.

1. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
2. No work shall take place on the site until details of a scheme for the disposal of surface 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.
2. Reason: In the interests of flood protection.
3. Before the commencement of any operations on site, a scheme for disposal of highway surface water via a positive gravity-fed system and discharging to an outfall in public sewer or watercourse, shall be submitted to and approved by the local Planning Authority.
3. Reason: In the interests of highway safety.
4. Dwellings shall not be occupied until the proposed Estate Street has been laid out in accordance with the application drawings as amended, and constructed at least to base course level, including footways, drained and lit in accordance with the County Council's Specification for Housing Development Roads as agreed in writing with the Local Planning Authority.
4. Reason: In the interests of highway safety.

Informatives:

The County Highways Authority advises that;

1 The developer must ensure that surface water run-off from private driveways is not allowed to flow onto the highway, and suitable drainage channels with outfall to the private surface water drain must be provided to the satisfaction of the Highway Authority.

2 In respect of the dwellings served by the shared private drive, the developer is advised to ensure that the future maintenance responsibility for the shared area is clearly defined on the individual property deeds.

3 The length of culverted drainage ditch beneath the turning head will become a highways maintainable culvert and will require to be constructed in accordance with Highway Authority standards.

Details of the landscaping, surface water drainage remain to be submitted to comply with conditions 8 & 10 of the outline planning permission 9/2002/0583

18/11/2003

Item 1.5**Reg. No. 9 2003 0965 F****Applicant:**

J A & A J Coxon
 Cromwell House Farm, Boggy Lane
 Church Broughton
 Derby
 DE65 5AR

Agent:

J A & A J Coxon
 Cromwell House Farm, Boggy Lane
 Church Broughton
 Derby
 DE65 5AR

Proposal: The formation of a silage clamp at Cromwell House Farm
 Boggy Lane Church Broughton Derby

Ward: North West

Valid Date: 18/08/2003

Site Description

The site comprises part of a field immediately to the north of the farm buildings. A hedge fronting Tippers Lane separates the site from the road. There is a post and wire fence to the east boundary closest to the houses.

Proposal

The proposal relates to the creation of silage clamp that would be constructed with clay walls some 3 metres high, 3 metres wide at the top and 7 metres wide at the base. Its front to the farmyard would be open its width would be 32 metres (35 Yards) and one side would be 45 metres long (50 yards) and the other 27.5 metres long (30 yards).

Applicants' supporting information

Since submission, the applicant has confirmed that the banks will be grassed and there would be no objection to a requirement for a hedge to be planted along the east boundary.

The applicant advises that the farm has an open slurry store and that material from an existing silage clamp has drained into the slurry store for the past thirty years. He confirms that he has sought the advice of the NFU for confirmation of the regulations regarding such.

Planning History

There have been numerous applications at the farm for buildings and other structures over the years but no applications on the land that is subject to this application.

Responses to Consultations

Church Broughton Parish Council has objected on the basis that:

- a) The proposed structure would have an adverse impact on the visual amenity of the area through its mass and the use of plastic sheeting and old tyres.
- b) There is also concern about the ability of the adjacent slurry pit to accommodate run off from the clamp and whether the increased size of the pit would result in odour or flies. The land adjacent to the slurry pit already floods and this proposal could make matters worse.
- c) The clamp is excessively close to the roadside hedge and there is concern that vehicles entering the highway may not be able to see properly.
- d) There must be a better location for the clamp within the farm complex.

The County Highways Authority has no objection subject to the measures being implemented to prevent the flow of surface water or the transfer of debris onto the highway.

The Environment Agency has no objection subject to there being no possibility of contaminated water entering and polluting surface or underground waters. The facility must also comply with relevant legislation and advice.

The Environmental Health Manager has concerns about the potential for the mixing of slurry and silage effluent creating smells. There is also concern that drainage facilities must be put in place in order to help to minimise smells from the site itself. The base and sides of the clamp should be professionally designed to meet the latest standards but the drawings suggest that this may not be the case. There are guidelines published that would ensure that the clamp is properly designed. If permitted a condition is necessary to ensure that there are drainage channels within the clamp and requiring that there is no storage of slurry in the clamp as the mixing of liquids can produce dangerous gasses. The gasses can become a problem if the store is enclosed, otherwise they dissipate to the air. It is also recommended that the attention of the applicant be drawn to the various advice leaflets available.

Responses to Publicity

8 letters have been received objecting to the proposal for the following reasons: -

- a) The size of the proposal is unbelievable and should not be allowed so close to dwellings. The structure would be an eyesore in a green belt area. There is plenty of other space within the farm holding where the clamp could be sited. These should be assessed before this location is accepted.
- b) The existing slurry pit/silage clamp causes land drainage problems and the farmer would be held responsible if his proposals make the situation worse. It is alleged that the pit/clamp obstructs a natural water course that subsequently causes the adjacent land to flood. If the natural course is affected it could affect the stability of an adjacent dwelling.
- c) Children play close to the proposed site and their health could be at risk.
- d) There would be an increase in the odours from the site that are already strong and cause residents to have to keep their windows and doors closed. This is an environmental hazard that has not yet been seriously or adequately addressed.
- e) The views from the backs of the houses will be totally spoilt especially the views of the setting sun. It will cause unacceptable shadowing across garden and other land.

- f) The height of the material within the clamp will exceed that of the banks and then be topped by black plastic sheets covered in old tyres.
- g) The proposal will reduce the value of our house.
- h) If ultimately permitted following the investigation of alternative sites at the farm, the east boundary should be planted with hedge and trees, the material stored should not be allowed to extend above the height of the bunds. The bund walls should be seeded with an appropriate grass seed mix to reduce its visual impact.
- i) The drawings are not professionally prepared and are not good enough to enable the proposals to be properly assessed.
- j) A silage clamp would have an adverse impact on the character of Tippers Lane. The use of the lane by heavy farm vehicles has already caused damage and the increased use that would arise from this development would cause further damage.
- k) The siting of the silage clamps near to homes may in fact infringe human rights.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Environment Policy 1

Planning Considerations

The main issue is the impact of the proposal on the character and appearance of the area and the potential for control of smells from the site.

Planning Assessment

The nearest dwellings lie some 60 metres to the east of the site. The receiving open slurry store is in place and has received silage runoff for a considerable number of years. The Environmental Health Manager has confirmed concerns about smells from the proposal but states that the emissions could be minimised by the use of conditions. Such a condition is recommended below.

The visual appearance of the proposal is intended to be mitigated by the use of grass seeding and the planting of a hedge along the east boundary of the site. The use of an earth mound will be less intrusive than a more usual concrete wall provided that the requirements of the environmental protection legislation are met. The attention of the applicant would be drawn to these requirements should permission be granted. The seeding and planting could be a requirement of a planning condition.

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 five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. 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.
2. Reason: In the interests of the appearance of the area.
3. 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.
3. Reason: In the interests of the appearance of the area.
4. Before development is commenced, precise details of the drainage system of the silage clamp hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall then be implemented in accordance with the approved details.
4. Reason: In the interests of preventing pollution of the water environment.

Informatives:

The facility must comply with the Control of Pollution (Silage Slurry and Agricultural Fuel Oil) Regulations 1991 (as amended). Silage liquor must be contained within a sealed system in accordance with the MAFF 'Code of Good Agricultural Practice for the Protection of Water'. You are advised to contact Mr G Harper Environment Protection Officer at the Environment Agency to discuss the specific requirements. (Tel: 01785 782555).

18/11/2003

Item 1.6**Reg. No. 9 2003 1010 D****Applicant:**

Miller Homes

East Midlands

Cedar House

Ashbourne Road

Derby

DE223FS

Agent:

Miller Homes East Midlands

Cedar House

Ashbourne Road

Derby

DE223FS

Proposal:**The erection of eighteen dwellings (submission of reserved matters) on Land To The South Of Hilton Road Etwall Derby****Ward:****Etwall****Valid Date:****12/08/2003****Site Description**

The site comprises the premises of Mitchell's a well-established agricultural machinery supplier within the village. The site lies off the main road through the village at its eastern end. It lies below road level and has a group of trees on its west boundary that is subject to a Tree Preservation Order. To the east of the site is the former railway line that is to be converted to a cycle track. This is separated from the site by a substantial hedge.

Proposal

The proposal is to erect 18 dwellings on the site. The layout proposes that the majority of trees subject to the Tree Preservation Order should be retained. The dwellings are a mix of 3, 4 & 5 bedroom dwellings. The access would be taken from Old Station Close and would be constructed to adoptable standards. Several trees would be lost arising from the development but the most important of the trees would be retained. Two small area of amenity space would be provided at the entrance to the site.

Applicants' supporting information

The application has been amended to take account of the need to protect the TPO trees and to increase the density of the development on the site. These amendments have been at the request of the Local Planning Authority.

Planning History

This application for housing is a detailed submission following the grant of outline planning permission last year. That permission was the subject of a unilateral undertaking to provide contributions towards the replacement Etwall Leisure Centre. If this development proceeds then a contribution of £13,500 would be forthcoming from this site.

Responses to Consultations

Etwall Parish Council considered this planning application and has several objections to the way in which this site is being developed. It objects to the fact that a series of small applications has resulted in a very large extension to the village's housing stock without apparent regard to the facilities that are available here. Taking this application and the one for the adjacent site together it would wish to see: (a) some public space provided; (b) some measure of social housing; (c) a comprehensive solution to the problem of surface water drainage from Hilton Road; and, (d) planting to replace the felling which would be necessary for this particular application. It is believed that there are some three-storey dwellings in the development and it is not clear that this is appropriate. The development for both applications should not be allowed until the needs of the schools have been identified and provision made to meet those requirements.

The County Highways Authority has no objection following amendments to the proposals by the applicants.

The Environment Agency has no objection subject to conditions relating to the assessment of any contaminated land, surface water disposal and control of the flows into the Etwall Brook.

The Police Architectural Liaison Officer has no comment.

The Environmental Health Manager has no objection subject to conditions relating to the possible contamination of the land

Responses to Publicity

4 letters have been received objecting to the development for the following reasons: -

- a) The proposed access road is not acceptable, it should be located further up the road away from the houses or the existing access should be utilised. The road is narrow and traffic levels would double together with the noise and pollution.
- b) Children play in relative safety; this would be compromised if the development is allowed to proceed. Children's safety should be the paramount consideration. The close was never designed to become a thoroughfare and thus many families with young children purchased their houses. There is no formal children's play space proposed.
- c) The speed restrictions should be extended to the other side of the railway bridge. There are no speed signs at the entrance to Old Station Close. Speed bumps should be provided to reduce speed on the cul de sac. A proper safe access should be provided for builders and future residents.
- d) Since the new houses have been built the bottom of adjacent gardens have started flooding.
- e) The form and plans do not tally, there are three storey dwellings proposed whereas the form states 16 two-storey dwellings are proposed. Three -storey dwellings would change the outlook from established dwelling.
- f) The community wishes to be assured that tree felling is kept to a minimum.
- g) There is concern about who is responsible for the maintenance of the watercourse.
- h) The needs of the primary school should form a part of the consideration of the application.

Structure/Local Plan Policies

The relevant policies are:
Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5

Emerging Local Plan: Policy H1 & ENV 21.

Planning Considerations

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

- The impact of the proposal on adjacent dwellings
- The suitability of the access
- Impact on the protected trees

Planning Assessment

The principle of the development of the land for housing has been established. Notwithstanding the presence of two and half storey dwellings on the site, the distances between proposed and existing dwellings, exceed the minimum distances required by adopted Supplementary Planning Guidance. The rooms in the roof are bedrooms with ensuite facilities and there are 25 metres between these windows and the existing dwelling.

The access position was the subject of the outline planning permission and as such is fixed. Some trees would be lost because of this but they are not protected by the Tree Preservation Order. And notwithstanding the objection relating to the access to Old Station Close, the access is of a standard acceptable to the County Highways Authority. There is the additional benefit of the substandard access to the Mitchell's site being closed off thus reducing any confusion about turning movements in the vicinity of Old Station Close.

The proposals have been amended to take account of the need to maximise the retention of protected trees at the site. A condition is recommended to ensure that tree protection fencing is put and maintained in place before and during the construction of the houses.

Recommendation

GRANT permission subject to the following conditions:

1. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no.V/O/2/1/D.
1. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
2. No dwellings shall be occupied until the proposed estate street has been laid out in accordance with the application drawings (as amended), to conform with the County Council's Roads in Housing design guide, and constructed to at least base course level, drained and lit in accordance with the County Council's Specification for Housing Development Roads.
2. Reason: In the interests of highway safety.
3. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water highway drainage shall be passed through trapped gullies with an overall capacity compatible with the site being drained.
3. Reason: To prevent pollution of the water environment.

4. Notwithstanding the submitted Burley house type, this dwelling shall not be constructed on Plots 17 & 19 until the design has been amended to omit clear glazed windows from the rear elevation to bedrooms 2 & 3.

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

Informatives:

You are advised that the desk top study of the potential contamination of the site remains to be submitted as required by Condition 5 of the outline planning permission before development can be commenced.

The landscaping details, including the means of protecting the trees that are subject to TPO 149, remain to be submitted before the development can be commenced.

Surface water drainage disposal remain to be submitted (Condition 4 of the outline planning permission). These should include details of a positive gravity fed system for highway surface water that should also demonstrate that the run off from private drives would not flow onto the highway to the satisfaction of the Highway Authority.

The culvert beneath the access, where it crosses into the site, needs to be constructed to Highway Authority standards as it will become maintainable at public expense.

The Environment Agency advises:

If surface water is to discharge to the adjacent ditch the applicant should demonstrate that the downstream culvert is of adequate size so as not to cause flooding.

Any culverting and the re-alignment of the of the watercourse will require the prior written approval of the Agency under the terms of the Land Drainage Act 1991 or Water Resources Act 1991. The Agency resists culverting on conservation and other grounds, and consent for such works will not normally be granted except for access crossings.

If the highway is to be adopted through an agreement under the provisions of S38 of the Highways Act 1980 the adopting Highway Authority will require the use of appropriate construction techniques, including the use of trapped gullies, for the disposal of surface water. However, if the highway is not to be adopted the following condition should be imposed.

Further to condition 4 above, alternative means of illuminating these rooms may be acceptable and subject to further approval by the Local Planning Authority.

18/11/2003

Item 1.7**Reg. No. 9 2003 1024 L****Applicant:**

Mr Mrs Lakin
 Mill Farm, Church Street
 Netherseal
 Swadlincote
 Derbyshire
 DE128DF

Agent:

Beckett Jackson Thompson
 8 Eldon Chambers
 Wheelergate
 Nottingham
 NG1 2NS

Proposal: **The formation of a revised vehicular access at Mill Farm
 Church Street Netherseal Swadlincote**

Ward: **Seales****Valid Date:** **15/08/2003**

The parallel planning application is reported at 9/2003/1025.

Recommendation

GRANT permission subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of five years from the date of this consent.
1. Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
2. No part of the development shall be carried out until samples of the facing bricks to be used in the construction of the gate piers and walls have been submitted to and approved in writing by the Local Planning Authority.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. Pointing of the wall shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".
3. Reason: In the interests of the appearance of the building(s).
4. A sample panel of pointing 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing.
4. Reason: In the interests of the appearance of the building(s) and the locality generally.

18/11/2003

Item 1.8**Reg. No. 9 2003 1025 F****Applicant:**

Mr Mrs Lakin
 Mill Farm, Church Street
 Netherseal
 Swadlincote
 Derbyshire
 DE128DF

Agent:

Beckett Jackson Thompson
 8 Eldon Chambers
 Wheelergate
 Nottingham
 NG1 2NS

Proposal: The formation of a revised vehicular access at Mill Farm
 Church Street Netherseal Swadlincote

Ward: Seales

Valid Date: 15/09/2003

Site Description

The site is land around a former mill, farmhouse with extension and group of former farm buildings. The site is located outside the village confine boundary of Netherseal and within the open countryside and Conservation Area and is visible from one of the main approaches to the village. The land to the east of the site is also within the ownership of the Applicant and has been planted with trees.

Proposal

The proposal is to alter the vehicular access to the dwelling and buildings, to resurface the land around all the buildings with a variety of materials and to construct gate piers and boundary treatments.

Applicants' supporting information

The current access arrangements for the property are not operationally safe. There is a considerable risk of accident for all vehicles leaving the site. The entrance is blind and the vehicle nose needs to extend into the road before the driver can see approaching traffic. Vehicles approaching Netherseal do so at high speed. The entrance is the first one in the village and drivers have not adjusted to the speed restriction. They are generally travelling too fast as they pass the entrance. There have been a number of minor accidents and it is expected that if the current entrance arrangement persists then there will unfortunately be a more serious one. The pedestrians are in danger as well. There is a footpath on the Mill Farm side only which means that when vehicles have to stick their noses out into the road it is done blind and safety relies on the pedestrians seeing the vehicles as they appear. It requires quick reactions and awareness. Not all pedestrians will have these faculties.

Large vehicles are required to visit the site for the maintenance and emptying of sewage treatment works, maintenance and refilling of fuel oil storage unit and estate maintenance. Large vehicles from tractors with trailers to articulated trucks need to access the site. They cannot manoeuvre through the current entrance.

Improvement works would be carried out on the site, these would include:-

- The replacement of the blockwork walls to the inner courtyard. The existing walls would be demolished and replaced with red brickwork walls of a similar height. They would be capped with coping bricks (to match the boundary walls to Church Street) and they would have hidden brick piers where the gateway opening is reformed.
- The replacement of the existing rusty steel gates with new.
- The repair of the end gable wall to the small barn at the rear of the inner courtyard.

Planning History

Planning and listed building consent applications for a new access and ancillary surfacing works were refused last year due to the unnecessary incursion into the countryside and adverse impact on the character of the Conservation Area.

There is currently a listed building consent application being considered alongside this planning application (see 9/2003/1024).

Responses to Consultations

The Parish Council strongly object to the application for the following reasons:-

- The proposed access is very close to a sharp bend, which gives a restricted view of approaching traffic and is situated on a stretch of highway covered only by the national speed limit on which vehicles approaching the village travel at high speeds. The letter from the Applicant states that 'the current access is dangerous due to the high speed of approaching traffic', the proposed entrance is even closer to the bend in the highway.
- The application site plan does not show a true representation of the layout of the highway at the point in question and the closeness of the proposed entrance to the sharp bend in the highway.
- If a problem exists with access to the property it would be more appropriate and less dangerous for the existing access to be widened.
- The agent's letter states that large vehicles are required to visit the site. Until the current owner purchased the site it was a working farm and was accessed regularly by the type of vehicles in question without any problem.
- The Parish Council considers that the current entrance is sufficient for a domestic dwelling.

The County Highway Authority has no objections to the new access subject to conditions.

Councillor Mrs Hall has requested that the application be reported to Committee.

Responses to Publicity

None received.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Environment Policy 9.

Local Plan: Environment Policies 1 and 12.

Draft Local Plan: Policy Env 20.

Planning Considerations

The main issue central to the determination of this application is the impact of the proposed access and ancillary works on highway safety, the countryside and the character of the Conservation Area.

Planning Assessment

The proposed new access would be located to the east of the grouping of former farm buildings within the adjoining field. Both the existing access points to the site would be closed off with locked gates. Access from the field into the courtyard between the buildings would be via a gate; new brick gate piers would be constructed either side of this entrance. There is already a field access at the proposed access point but the new access would be upgraded and widened. County Highways have no objection to the proposed new access subject to conditions to ensure that highway safety requirements are met.

The previous scheme was refused on the grounds that the development would represent an unnecessary incursion into the countryside and would have an adverse impact on the character of the Conservation Area. The proposed access is still within the countryside however as a result of the tree planting that has been carried out in the adjoining field and the amended materials that are to be used for the access way, the impact on the openness of the countryside and harm that would be caused are considered to be minimal. Following negotiation the plan has been amended so that the materials to be used in the surfacing and paving within the site are traditional and sympathetic to the area and will not have an adverse impact on the setting of the listed building or character of the conservation area.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. The new access shall have a minimum width of 4.1m and be surfaced in a solid bound material (i.e. not loose chippings) for a distance of 5m into the site from the highway boundary.
2. Reason: In the interests of highway safety.
3. The access shall be provided with 2m x maximum achievable visibility sightlines over controlled land with no obstruction exceeding 1m in height relative to road level forward of the sightlines.

3. Reason: In the interests of highway safety.
4. Any gates shall be set back at least 5m from the highway boundary.
4. Reason: In the interests of highway safety.
5. No part of the development shall be carried out until samples of the facing bricks to be used in the construction of the gate piers and walls have been submitted to and approved in writing by the Local Planning Authority.
5. Reason: To safeguard the appearance of the existing building and the locality generally.
6. Pointing of the wall shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".
6. Reason: In the interests of the appearance of the building(s).
7. A sample panel of pointing 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing.
7. Reason: In the interests of the appearance of the building(s) and the locality generally.

Informatives:

To note and act upon as necessary the comments of the Coal Authority (see attached letter).

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

18/11/2003

Item 1.9**Reg. No.** 9 2003 1038 F**Applicant:**

Mr Kevin Dutton
31 Duesbury Court
Mickleover Country Park
Derby
DE3 5UP

Agent:

Darryn Buttrill
Bi Design Architecture
First Floor Studio
79 High Street
Repton
Derbyshire
DE656GF

Proposal:

The erection of a replacement dwelling(amended scheme to include swimming pool) at Laburnum Cottage Heage Lane Etwall Derby

Ward:

Etwall

Valid Date:

20/08/2003

Site Description

The site comprises a substantial plot in the countryside. To the north of the plot lies the former railway that is now part of the Sustrans network of Millennium cycleways. There are two dwellings either side of the plot but these are at some distance from the proposed dwelling. Hedges enclose the plot but the Sustrans route is on embankment at this point.

Proposal

The proposal involves the erection of a substantial replacement dwelling including a swimming pool, substantial garage with a entertainment cinema and games room above and a six bedroom dwelling in a two and a half storey building.

Applicants' supporting information

There is an extant permission for the dwelling and garage already in place. The current application is for the swimming pool in addition to what has already been permitted.

There is a clear intention on the part of the applicant to carry out a swimming pool as part of his dwelling. However, if this application is not allowed he can exercise his permitted development rights to ensure that one is built.

The current application seeks to ensure that the swimming pool forms an integral part of the development rather than looking like an after thought with a low roof to meet the permitted development requirements, i.e. the roof height would have to be less than 4.0 metres. A development in this form, it is argued, would look out of place given the open nature of the site.

Planning History

Permission for a replacement dwelling in the form now proposed to be part of this application was granted in June this year using delegated powers. The permitted scheme followed discussions to reduce the scale of the development then proposed.

Responses to Consultations

Etwell Parish Council objects to the development as it is considered too large for the site and out of character with the adjoining properties. It would also detract from the cycle track and have an adverse impact on the surrounding countryside.

The County Highways Authority has no objection subject to conditions imposed with the last application being imposed on this one.

The Environment Agency sought clarification about the disposal of back wash from the swimming pool. The applicant has clarified the issue and if a septic tank has sufficient capacity to accommodate the backwash then there is no objection. However, the swimming pool must not discharge to the existing septic tank as it may overload the system and cause disturbance to sediment already in the tank.

Responses to Publicity

One objection letter draws attention to flooding problems in the area, both foul and surface water. The proposed dwelling is too large and the original proposal would be more appropriate.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 6.

Local Plan: Environment Policy 1, Housing Policy 8

Draft Local Plan: Policy ENV 8 & 21.

Planning Considerations

The main issue central to the determination of this application is the impact of the proposal on the character of the countryside taking into account the potential for the applicant to implement permitted development rights to provide the swimming pool at this site.

Planning Assessment

In terms of what is already permitted the house and garage could be developed tomorrow and then the applicant could build the pool without the need for planning permission. Using permitted development rights would require the applicant to site the pool building at least 5 metres from the house, no closer to a public highway and if it has a flat roof, be 3 metres high or a pitched roof 4 metres high.

The 'permitted' building would then be unrelated to the existing and permitted dwelling and appear intrusive in the countryside. However, the building as now proposed would appear as a unified structure set against the background of the Sustrans route from most vantage points although it would be prominent from the track itself.

Even if the permitted development rights had been removed, the applicant could still built his swimming pool first, before implementing the above permission, he could then demolish the original building and build the permitted dwelling and garage.

The current application would offer the opportunity to ensure that the development was carried out using a more cohesive design that would result in the impact on the countryside being minimised.

Bearing in mind what could be constructed with existing permissions and permitted development rights, the proposal offers the opportunity to control the appearance of the new building. A condition removing the permitted development rights (in the future) for this proposal would be appropriate and a condition requiring a formal submission of foul and surface water drainage would also be necessary given the comments of the Environment Agency.

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 five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
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.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. 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).
3. Reason: To protect the amenities of adjoining properties and the locality generally.
4. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
4. Reason: In the interests of the appearance of the area.
5. 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.
5. Reason: In the interests of flood protecting and pollution control.

6. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate three cars within the curtilage of the dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.
6. Reason: To ensure that adequate parking/garaging provision is available.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.
7. 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.

Informatives:

The comments of the Environment Agency (letter to Bi Design dated 24 October 2003 refers) relating to the disposal of waste from the swimming pool should be taken into account in preparing details for the discharge of condition 5 above.

18/11/2003

Item 1.10
Reg. No. 9 2003 1123 F

Applicant:
 Mr Mrs M Dean
 87, Main Street
 Milton
 Derby
 DE656EF

Agent:
 N Astle
 24 The City
 Woodville
 Swadlincote
 Derbyshire
 DE117DH

Proposal: The erection of a detached garage and a building to provide self contained living accommodation at 87 Main Street Milton Derby

Ward: Repton

Valid Date: 18/09/2003

Site Description

The site contains an extended and modernised cottage, a flat roofed garage and a furnished outbuilding. The garage and outbuilding are of non-traditional design and materials.

Proposal

The application seeks to erect a new garage and a detached building. The garage would be located at the western boundary of the site within an extended garden area. It would measure 5.7 m x 5.2 m in plan. Access to the garage would be from within the site. A blank wall would be presented to the adjacent highway. The other new building would have internal accommodation comprising one bedroom, a shower room and a kitchen/living area. It would measure 6.8 m x 6.3m in plan. It would be located at about the same distance from the house as the existing furnished outbuilding, but closer to the road. It would be higher because of its steeper pitched roof but would cover a lesser area of ground.

Because the garage affects an area that does not appear to benefit from a lawful use as residential curtilage the application includes a de facto proposal to change the use of that piece of land.

Applicant's Supporting Information

Both buildings are replacements. The family's needs for the new accommodation are as follows:

- a) It is single storey, more maintainable and provides appropriate access for all abilities.
- b) Both applicants have serious medical conditions and find it increasingly difficult to live in the two-storey dwelling.

- c) If the application were permitted then the applicants' daughter, who lives in rented accommodation in the village, would be able to move into the main dwelling. She would be able to provide 24 hour supervision for the applicants' medical needs.
- d) The applicants are long term residents of the village (over 25 years) and wish to remain so.
- e) It has never been the applicants' intention to form a new residential building in the countryside. The building would be ancillary to the main house only.

Responses to Consultations

The Parish Council strongly objects for the following reasons:

- a) The site is on the edge of an unsustainable village with no public transport.
- b) Part of the site has been taken from woodland indicating a change of use.
- c) Trees would need to be felled to facilitate building.
- d) Another recent proposal has been turned down so this one should not be allowed.
- e) The access would be on an unmade track used by large farm vehicles, walkers, riders and mountain bikers.
- f) The proposal would constitute a new separate residence.

Repton Village Society objects as follows:

- a) The proposal is described as a granny flat but is in effect a new detached residence.
- b) Milton is a non-sustainable village with no public transport, schools, shops etc.
- c) The access would be on an unmade track used by large farm vehicles, walkers, riders and mountain bikers. The development would have an adverse effect on safety issues.
- d) Mature trees surround the site and it is likely that trees would need to be cleared before building to obtain light.

The Highway Authority has no objection in principle.

Responses to Publicity

Letters have been received from four local households objecting in the following terms:

- a) The proposal is contrary to policy.
- b) Although conditions could be imposed to ensure that use is restricted to a granny flat, this could be lifted in the future.
- c) There is no need for the granny flat.
- d) The garage would be on land that was until recently woodland.
- e) The access would be dangerous to users of the footpath and bridle way and farm track.
- f) Extra traffic would cause nuisance.
- g) The woodland should be protected to secure its long-standing amenity value.
- h) The applicant has already felled trees and other would be encouraged to do likewise.
- i) The existing water supply is inadequate. The proposal would exacerbate the situation.
- j) Permission for a granny flat was recently refused at 85 Main Street.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy 4 and Housing Policy 6.

Local Plan: Environment Policy 1 and Housing Policies 8 & 13.

Planning Considerations

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

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

Planning Assessment

Normally the establishment of new residential development would be contrary to policy. However the development would replace existing buildings, it would be very small scale and intimately related to the host dwelling. There is a specific family need for the extra accommodation at this particular site. In view of these circumstances the proposal is capable of being acceptable in principle subject to the imposition of appropriate conditions.

The proposal would replace two existing structures with buildings of more appropriate design and materials. The development would thus enhance the general character of the area.

The development poses no threat to the surrounding woodland. The trees to be removed to facilitate development are not of sufficient amenity value as to warrant the making of a Tree Preservation Order.

The proposal satisfies supplementary planning guidance on space about dwellings and there would thus be no detriment to the amenities of the occupiers of residential property.

As the entire site would be occupied by a single family there would be no demonstrable impact on the provision of services and utilities.

For similar reasons there would be no demonstrable harm to highway safety interests, subject to conditional control over occupation.

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 five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
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.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. Large scale drawings to a minimum Scale of 1:10 of eaves and verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves and verges and external joinery shall be constructed in accordance with the approved drawings.
3. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
4. The living accommodation hereby permitted shall be occupied solely by members of the household of 87 Main Street Milton or by domestic staff, and shall not be severed from the main house as a separate and unconnected dwelling.
4. Reason: Permission is granted in the light of your particular personal circumstances. Although the erection of an extension to provide additional accommodation to be used in conjunction with the existing dwelling is acceptable, the Council would not normally be inclined to allow the formation of a separate residential unit in this locality. Since the extension includes all the domestic facilities necessary for the establishment of a separate self-contained unit, the Council hereby seeks to make it clear that separate occupation is not authorised by this permission.

Informatives:

Footpath 18 and Bridleway 19 are adjacent to the site. The routes must remain unobstructed at all times and the safety of the public using it must not be prejudiced either during or after development takes place.

18/11/2003

Item 1.11**Reg. No.** 9 2003 1160 FH

Applicant:
 Mr Paul Davis
 Longridge, Main Street
 Hilton
 Derby
 DE65 5GG

Agent:
 Mr Pat Broderick
 Office Number 2
 Derwent Business Centre
 Clarke Street
 Derby

Proposal: The erection of a two storey extension and formation of a new access at 59 Main Street Hilton Derby

Ward: Hilton

Valid Date: 22/09/2003

Site Description

The site comprises the rear garden of the dwelling and this extends across the back of the adjacent dwelling (61 Main Street). There is a roadside hedge and fence on a slight embankment. A post and chainlink fence separates the site from the Parish Council playing field although the applicants have a leylandii hedge on their side of the fence.

There is a bus shelter/stop and pedestrian access to the playing fields immediately to the west of the proposed access.

Proposal

The two storey extension would be located at the north end of the dwelling, i.e. the side furthest away from the neighbour. The access would be located immediately to the east of the bus stop and in close proximity to the pedestrian access to the playing field.

Responses to Consultations

Hilton Parish Council has no objection to the extension of the dwelling. There is an objection to the access because of its proximity to the playing field access.

The County Highways Authority comments will be reported at the meeting.

Responses to Publicity

The neighbour has objected to the access and hardstanding but has no objection to the erection of the extension.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: Housing Policy 13

Emerging Local Plan: ENV 21

Planning Considerations

The main issues central to the determination of this application are the impact of the extension and access on amenity and highway safety.

Planning Assessment

The proposed extension is acceptable in terms of its design and location and conforms to the above policies and supplementary planning guidance on extensions.

The acceptability of the new access depends on the comments of the County Highways Authority. If there is no objection then there may not be grounds for refusing permission on the basis of highway safety. If there is an objection, then the applicant may be minded to remove the access from the application to ensure that the extension is allowed. The County Highways Authority comments will be reported at the meeting together with any views from the applicant.

The neighbour is concerned about the loss of privacy that may arise from the proposed vehicle hardstanding outside one of the windows. This situation could occur in any event as permitted development rights extend to the formation of a hardstanding within the residential curtilage. Thus if the access were refused the applicant could still form a patio area in the same location without recourse to the planning system.

The recommendation below is in favour of the applicant but may be changed if the County Highways Authority objects to the access.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
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.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. Any reasonable conditions recommended by the County Highway Authority