

- a) The proposal is backland development with inadequate access.
- b) There would be loss of privacy to adjacent properties.
- c) There would be a precedent for backland development elsewhere.
- d) Access for the flats and business premises at the site is already inadequate.

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

Responses to Publicity

A neighbour objects in the following terms:

- a) The site is in the conservation area on land that has always formed gardens.
- b) The dwelling would be excessively large and obtrusive.
- c) The property would be adjacent to the neighbouring boundary with consequent loss of openness and overshadowing.
- d) Any windows or rooflights in the north west elevation would overlook the neighbouring dwelling at 54 Derby Road.
- e) There would be increased traffic with amenity and safety consequences.
- f) User so of the site would tend to park on the highway.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 6 and Environment Policy 9.

Local Plan: Housing Policy 5 & 11 and Environment Policy 12.

Planning Considerations

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

- The principle of development.
- The impact on the character and appearance of the conservation area.
- Residential amenity.
- Highway safety.

Planning Assessment

The site lies in the confines of Melbourne, which is identified as a sustainable settlement. PPG3 encourages the best use of land and in particular the development of previously used land. Therefore the proposal is acceptable in principle,

The design of the dwelling reflects traditional form and detail. It is only visible from the access to the site. It would be seen in front of modern dwellings in Beech Avenue, which are currently visible from this point. Overall the development would have a neutral impact on the character and appearance of the conservation area.

The proposal satisfies the tests set out in the supplementary planning guidance on the design and layout of new residential development. Whilst there would be a degree of overshadowing to the rear garden of 54 Derby Road in the morning, this part is well away from the dwelling that it

serves. Accordingly there would be no demonstrable harm to the living conditions of the occupants.

On the advice of the Highway Authority the development would not have an adverse effect on highway safety interests.

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.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. NA/TP/1a and 2a received 10 September 2001.

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

3. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.

To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

4. Large scale drawings to a minimum Scale of 1:20 of external joinery, including sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

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

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

6. 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.

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.

7. 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".

Reason: In the interests of the appearance of the building(s).

8. 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.

Reason: In the interests of the appearance of the building(s) and the locality generally.

9. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.

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

10. 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.

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

11. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

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

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

13. Before any other operations are commenced the existing vehicular access to Derby Road shall be made available in accordance with the application drawings to include visibility splays of 2 m x maximum to the north-west, laid out and constructed in accordance with a specification that shall have previously been submitted to and approved in writing by the Local Planning Authority. The area in advance of the visibility splay shall be retained in perpetuity clear of all obstructions in excess of 1 metre in height relative to the adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

14. The dwellings shall not be occupied until an area has been provided within the site curtilage for the parking and turning of vehicles in accordance with the application drawings. The area shall be laid out and constructed in a solid bound material and thereafter retained free of any impediment to its designated use.

Reason: In the interests of highway safety.

15. The windows in the north west wall of the building shall be permanently glazed in obscure fixed glass and the first floor window to the north east elevation shall be permanently glazed with obscure glass.

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

25/09/2001

Item A8**Reg. No.** 9 2001 0713 F**Applicant:**

Redrow Homes Midlands Ltd
 Redrow House
 Kinsall Green
 Wilnecote
 Staffordshire
 B77 5PX

Agent:

Stephen Lowe Associates
 The Smithy
 Deep Lane
 Nether Whitacre
 North Warwickshire
 B46 2HT

Proposal: The erection of a residential development and associated siteworks comprising of 16 town houses at Area H 11 Off Welland Road At The Former Hilton Depot Hilton

Ward: Hilton

Valid Date: 23/07/2001

Joint with 9/2001/0714

Site Description

The site comprises part of the former Hilton depot site. The land slopes from north to south across the site and it forms land that separates the upper part of the depot site from the lower land i.e. there is a ridge at the top of the site.

Proposal

The development would comprise the erection of sixteen, three storey houses in four terraces with their main aspects facing east/west. At each corner of the terraces a polygon shaped tower is proposed that would accommodate the dining, living and one of the bedrooms to those proposed dwellings.

There is an area of proposed open space to the west of the site, houses at a higher level to the north beyond the 'greenway' and proposed dwellings by the applicant developer to the east and south.

Planning History

The site was first granted outline planning permission in 1993, subsequently extended in 2000.

Various detailed applications have followed including one for the erection of detached three and four bedroom dwellings on this and the adjacent land.

Responses to Consultations

Hilton Parish Council has no objection.

The County Highways Authority had no objection subject to the imposition of conditions.

The Environment Agency has no objection subject to conditions

Responses to Publicity

13 letters of objecting to both applications have been received. The objections are as follows: -

- a) The increased density would increase the amount of traffic and with it, the risk of accidents especially as this is an area primarily for young families. There will also be increased noise.
- b) Three storey houses would be out of character with the rest of Hilton and thus spoil the aesthetics' of the village that is represented by detached, semi-detached houses and cottages. The developers should be made to include more three bedroom detached and semi-detached dwellings that more accurately reflect the character of the village whilst at the same time increasing density. What are the planners going to do to stop this happening again. The buildings are ugly and more suited to a city location.
- c) There would be insufficient parking for the site. There will be parking on the road.
- d) If there is an increase in density, then eventually there will not be enough facilities to cater for the larger numbers of residents, especially schools. Developers should be made to contribute to additional school and recreational facilities before they are allowed to build the dwellings. There is little or no public transport on the site and the occupiers of these dwellings would be reliant on the car to get about.
- e) The developers should be made to build their originally permitted plans there is no benefit to the local residents from this change to the plans, Redrow will increase its profits. Plans should not be changed to suit the convenience of the developers or the council. Both developers and planners can walk away from this folly as this will be seen in the future, but residents cannot. This is a significant change to the master plan upon which decisions to purchase were made. Sites LCH 1 & 2 were allocated for high density shared ownership dwellings. These 4 bedroom luxury dwellings in no way address the need for low cost housing and do nothing to promote sustainable development.
- f) There is no demand for three storey dwellings as demonstrated on the Persimmon development where only one such dwelling has been sold.
- g) Some dwellings may be overshadowed and the site is at one of the highest parts of the site and will dominate the skyline especially when viewed from Whyston Brook where residents feel they have been misled by the developers. The dwellings will not blend into the surroundings.
- h) More dwellings cause concern as there is no sign of a take up of the business land in the village.
- i) The site has been very well developed up until now.
- j) Developers on the site are using roads to access their sites rather than the main roads they promised to use.

Structure/Local Plan Policies

The relevant policies are:

PPG 3

Joint Structure Plan: General Development Strategy Policy 1, Housing Policy 5

Local Plan: Housing Policy 1

Planning Considerations

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

- Conformity with the Development Plan.
- The impact of the proposed dwelling on adjacent dwellings and the design of the dwellings.
- Highway safety.

Planning Assessment

The site is one that is allocated in the Local Plan as a major housing site. Additionally, outline consent exists for the erection of dwellings on the site. As such the proposal is in conformity with the Development Plan and, in principle, acceptable.

The design of the buildings is a reflection of a Georgian terrace. In terms of the impact of the proposal on existing occupiers, there would be in excess of 25 metres between the rear of existing dwellings and windows in the proposed dwellings. There is also the landscaped greenway between the existing and proposed dwellings. When determining a recent appeal at the Pastures site for flats and apartments, the inspector concluded that there would be no overbearing or overlooking of dwellings from a three storey unit due to the presence of a road between the proposal and the dwellings. The distances there were, in places less than 15 metres. In the circumstances of this application, where there is a greater distance between properties, the proposal is acceptable.

The scale of the building, i.e. three storey, is greater than most new dwellings. However, the new units would not be so detrimental to this large area of new housing such that the application could be resisted on those grounds.

Additionally, the site is previously developed land where the original village has been expanded to accommodate the requirements of the Structure Plan for housing in the north west of the District. The sites as a whole will ultimately more than double the size of the village. Whilst the site so far has developed at a low density the advice of the Government is that the best use should be made of brown field sites. This is the case here.

The new housing units have provision for two parking spaces each. In general three spaces are required for dwellings of this size, i.e. four bedrooms. However, in this case the highway authority do not believe that there would be a highway safety problem caused by the level of parking provision and reduced levels of parking is in accordance with government intention. Therefore, in this case there would be no problems connected with highway safety.

Recommendation

GRANT permission subject to the following conditions:

1. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 1714/100/A submitted under cover of your letter dated 31 August 2001.

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

2. If any unexpected, visibly contaminated, or odorous material is encountered during redevelopment it should be excavated. Remediation proposals for this material should then be agreed with the Local Planning Authority.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

3. No work shall take place on the site until an adequate site investigation and assessment of contamination and the measures to be taken to avoid risk to people or the environment has been undertaken and submitted to the Local Planning Authority, and the development shall incorporate any measures shown in that assessment to be necessary for the removal or containment of any contaminated material when the site is developed.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

4. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

5. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

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

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

7. 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.

8. 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.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, none of the dwellings hereby permitted shall be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

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

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

25/09/2001

Item **A9****Reg. No.** **9 2001 0714 F****Applicant:**

Redrow Homes Midlands Ltd
 Redrow House
 Kinsall Green
 Wilnecote
 Staffordshire
 B77 5PX

Agent:

Stephen Lowe Associates
 The Smithy
 Deep Lane
 Nether Whitacre
 North Warwickshire
 B46 2HT

Proposal: **The erection of a residential development and associated
 siteworks comprising of 16 town houses at Area H 11 Off
 Welland Road At The Former Hilton Depot Hilton**

Ward: **Hilton**

Valid Date: **23/07/2001**

This report should be read in conjunction with that on application 9/2001/0713

Recommendation

GRANT permission subject to the following conditions:

1. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 1714/100/A submitted under cover of your letter dated 31 August 2001.

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

2. If any unexpected, visibly contaminated, or odorous material is encountered during redevelopment it should be excavated. Remediation proposals for this material should then be agreed with the Local Planning Authority.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

3. No work shall take place on the site until an adequate site investigation and assessment of contamination and the measures to be taken to avoid risk to people or the environment has been undertaken and submitted to the Local Planning Authority, and the development shall incorporate any measures shown in that assessment to be necessary for the removal or containment of any contaminated material when the site is developed.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

4. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

5. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

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

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

7. 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.

8. 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.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, none of the dwellings hereby permitted shall be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

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

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

25/09/2001

Item **A10****Reg. No.** **9 2001 0727 F****Applicant:**

Mr K Bosworth
24, Beech Avenue
Willington
Derby
DE656DB

Agent:

B A Williamson
Genista
Broomhills Lane
Repton
Derbyshire
DE65 6FS

Proposal: **The erection of a detached house and garage at Land
adjoning 24 Beech Avenue Willington Derby**

Ward: **Willington**

Valid Date: **26/07/2001**

Site Description

The site forms the side garden of 24 Beech Avenue, Willington. The site is currently partially occupied by the garage to 24, otherwise the site has open frontages to the roads and a boundary wall that separates the garden to 24 from the open area adjacent to it.

There is a row of substantial evergreen trees along the above-mentioned garden wall that would be removed if permission were granted. There are areas of shrubs on the land to be developed. There are similar areas of open land around the houses on the Beech Avenue frontage.

The site is located within a primarily residential area.

Proposal

It is proposed to demolish the garage and boundary wall to form a plot to erect a three bedroom detached dwelling with a frontage to both St Michael's Close and Beech Avenue. The dwelling would be set back on both frontages. A new boundary fence would enclose the rear garden. No materials of construction have been specified in the application. The new dwelling would be accessed off St Michael's Close and the existing dwelling would continue to use its access of Beech Avenue.

Planning History

The estate developed in the 1960's, the applicant's house was extended in the 1980's. Permission for the erection of a 4-bedroom dwelling was refused permission in 1991.

Responses to Consultations

Willington Parish Council has objected on the following grounds: -

- a) The house would be sited on the visibility splay for the Beech Avenue/St Michael's Close junction
- b) The development is contrary to the open verge aspect which characterises the estate
- c) Another access close to the above junction would be a danger to other road users.

The County Highways Authority has no objection subject to conditions controlling parking provision, construction of the new access and maintenance of a visibility splay across the road frontages.

Severn Trent Water has no objection

Responses to Publicity

Three letters have been received objecting to the development on the following grounds: -

- a) The dwelling would be intrusive in the street scene of both Beech Avenue and St Michael's Close standing as it does well in front of the dwellings on the close.
- b) The visibility for driver emerging from St Michael's Close into Beech Avenue and visa versa would be affected. Even if the dwelling is set further back in the site to avoid this, the house would be even more intrusive in St Michael's Close. The presence of the dwelling would make it difficult for an existing resident to access their access. It could result in the occupier having to reverse out into St Michael's Close, It is essential that he has clear visibility so that he can see children playing.
- c) The creation of a new drive in such close proximity to the road junction is not acceptable. The proposed fence would obstruct visibility for drivers emerging from the site.
- d) Allowing this development would set a precedent for development on the other three corners
- e) The existing house does not have enough space to park its existing vehicles, If this is permitted there would be even less space available. Vehicles would then transfer onto the highway
- f) Adjoining dwellings would be overlooked and overshadowed leading to a loss of privacy.
- g) The proposed dwelling is out of character with the 1960's dwellings.

Structure/Local Plan Policies

The relevant policies are:

Planning Policy Guidance Note 3

Joint Structure Plan: General Development Strategy Policy 1, Housing Policy 5.

Local Plan: Housing Policy 5 (as amended by the recent decision of Development Services Committee).

Planning Considerations

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

- Conformity with the Development Plan
- Affect on the scale and character of the locality
- Highway safety issues
- Conformity with space about dwelling standards
- Precedent

Planning Assessment

The site lies within a sustainable settlement where development is acceptable. The principle of the development is therefore in accordance with the Development Plan policies.

The proposed dwelling has been designed with the basic principles of South Derbyshire vernacular observed and, as such, it would be of a design that differs from many in the locality. However, the design is sympathetic to the village generally and it would not adversely affect the character of the area.

Whilst close to other dwellings, the new house would comply with the Council's Supplementary Planning Guidance. As such, it would not adversely impact upon the amenities of nearby residential occupiers.

The issue of highway safety is a matter that has been considered by the County Highways Authority. No objections have been raised subject to conditions ensuring that visibility splays at the junction between Beech Avenue and St Michael's Close is maintained. These can be obtained and sufficient parking achieved. Therefore, from a highway safety standpoint the application is acceptable.

The issue of precedent has been raised by the objectors. However, whilst there are other open areas within the estate it is unlikely all are capable of being developed in a similar way. Notwithstanding that, any application to develop any further areas would need to be considered on its merits.

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.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990

2. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the building is in keeping with its surrounding in the interest of the character and visual amenity of the area.

3. Prior to any other works commencing, space shall be provided within the curtilage of No 24 Beech Avenue for the parking of two vehicles laid out and paved in a solid bound material (i.e. not loose chippings) and maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

4. Prior to occupation of the new dwelling, space shall be provided within the plot curtilage for the parking of two vehicles laid out in accordance with the application drawing, paved in a solid bound material (i.e. not loose chippings) and maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

5. The St Michael's Close frontage shall be maintained free of any obstruction exceeding 600m in height relative to road level for a distance of 3m back from the highway boundary .

Reason: In order to maximise visibility for drivers emerging from within the site onto the highway

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

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

7. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the site area and effect upon neighbouring properties.

8. The windows in the west wall of the building shall be permanently glazed in obscure glass.

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

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

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

Informative:

(i) To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 xt 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.

Item **A11**

Reg. No. **9 2001 0733 F**

Applicant:

Victoria Building Co (Melbourne) Ltd
Castle Farm
Melbourne
Derbyshire
DE13 1EA

Agent:

K E Warrington
Brownhill Hayward Brown
Georgian House
24 Bird Street
Lichfield
Staffs
WS13 6PT

Proposal:

The erection of 15 (No) terraced bungalows, together with associated parking, services and enabling works at Land Adjoining Netherhall Netherhall Road Hartshorne Swadlincote

Ward:

Hartshorne

Valid Date:

27/07/2001

Site Description

The site is located outside the confines of Hartshorne and within open countryside. It consists of a now derelict stable yard, with stable buildings in brick and blockwork with tarmacked and concrete hard standings and ramps. There is also a disused tennis court.

Mature and self set trees fringe the boundaries and have begun to encroach within the site, which also has boundaries to the adjacent Nether Hall Nursing Home buildings and Wolsey Cottage, a detached house, next door.

Access would be taken from the main gates to the Hall and an existing drive around the side.

Proposal

The proposal is for 15 two bedroom bungalows around a courtyard with access and parking. In 8 of the units the second bedrooms would be accommodated within the roof space but without any increase to their external dimensions.

Applicants' supporting information

The new application for 15 bungalows for the over 55's aims to replace the existing permission for 25. The application is designed to reflect the view of the Committee that the site is only suitable for retirement housing.

The new application provides for 10 less units with consequent lower traffic movements and improved road safety when compared with the existing.

A contractual arrangement exists whereby each dwelling may be linked to 24 hour nursing staff at Nether Hall Nursing Home via an electronic panic button. However, the preferred method of delivery is for the dwellings to be managed by a recognised social housing landlord, providing site supervision and alarm response via a national call centre.

The new layout has been designed to harmonise with the landscape and is far less intensive than the existing permission. The proposal will be very well landscaped with existing trees and shrubs.

Planning History

In 1983 outline permission was granted for 17 units of elderly persons' accommodation on the land.

This was followed in June 1989 by outline permission 9/0589/0164/O for 25 units of sheltered accommodation. This permission was subject to conditions covering approval of details prior to construction, occupation of the units solely by elderly persons under the care of the Nursing Home at Nether Hall, diversion of a sewer and submission of a landscaping scheme, both prior to construction.

Reserved matters (9/0190/1067/D) were approved in March 1990. Before the expiry of the 5 year time limit, imposed under the outline permission, a start was made on the site by the digging of foundation trenches for two of the units and other minor works to the access and parking area.

The site passed into separate ownership from the nursing home and correspondence ensued between the new owners and officers to establish the validity of the permission in the light of the time limits on the submission of the various details referred to above. In the course of this, correspondence was exchanged between solicitors working for the owners and the Council, the outcome of which was that the owners were told that the permission remained exercisable.

The site then transferred to the present applicants, who proceeded on the basis of discussions with officers on the validity of the permission. They also expressed the desire to provide far fewer dwellings to an exceptionally high standard, in what would be a more sustainable manner than the twenty five units, which might be completed under the permission.

As a result of additional research into decided case law, the validity of the 1989 permission was further challenged by officers, resulting in the submission of a legal opinion, that concentrates particularly on concerns raised by officers out of their reading of a High Court case: *Leisure Great Britain plc v Isle of Wight Council* 1999.

The advice to the applicant, which has been accepted by the Legal Services Manager as reliable, shows that there are valid exceptions to the principle that operations carried out in breach of a condition cannot be relied on as material operations capable of commencing development in accordance with a permission.

In a previous case: *Agecrest v Gwynedd County Council* 1998, the Court held that the Planning Authority had a discretion in the way it dealt with a permission where a start was made without compliance with conditions precedent. 'Precedent' in this context means requiring something to be done or agreed before works are begun. The discretion turns on the facts and effective purpose of the conditions. If the requirements of the conditions would have no direct bearing on

the development carried out, the planning permission would still be effective. The applicant may rely upon a letter from the Planning Officer to this effect in this case.

An application for 5 new houses on the site was refused in April of this year.

Responses to Consultations

The Parish Council notes thje application is for 55 year olds in perpetuity but is unhappy with the proposed access and requests a better alternative.

The County Highways Authority has no objection subject to parking and servicing provision.

Severn Trent Water Limited has no objections subject to provision of an acceptable foul water disposal system

Responses to Publicity

Two letters of objection raise the following issues:

- (a) The proposal is not substantially different from the previous one which was refused
- (b) The proposal would introduce a jarring, suburban note to the setting of Netherhall, which is of local architectural importance and should be listed.
- (c) Further land is held by the applicants for expansion and a precedent might be set for it and other similar sites
- (d) The site is in the National Forest with imaginative new woodland planting which should be protected from urban sprawl and loss of rural attractiveness
- (e) The additional traffic generated would add to existing hazards on the road.

A further letter raises concerns that 'over 55' is not sheltered accommodation, this type of facility normally being restricted to over 65 year olds. The likelihood of anyone needing care from the home is remote. More elderly people would also be more likely to need public transport whereas the residents of the current proposal would be more independent with their own transport and thus producing more traffic on the lane. Future owners should also be restricted to over 55 years old.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 3 and 4, Housing Policy 6 and Transport Policy 4.

South Derbyshire Local Plan: Environment Policy 1 and Housing Policy 8

Planning Considerations

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

- Conformity with the policies of the development plan
- The validity and effect of the existing permission
- Sustainability

Planning Assessment

The application does not accord with the policies of the development plan in that the site is not within an urban area where housing policies provide for new housing, that it is not necessary development in the countryside and that insufficient minimisation of the need to travel can be achieved.

However, other material considerations may prevail where appropriate. So far as it does conform with policy, the application provides for the redevelopment of brown field land, not completely unrelated to the urban area with a specialist form of housing, related, albeit more tenuously than formerly, to the adjacent nursing home.

Additionally, weight needs to be given to the validity of the permission for 25 bungalows. The first issue was the relationship to the now separate nursing home. The previous site owner was able to show a covenanted relationship as part of the sale of the land to provide general care and supervision by Netherhall, fully meeting the requirements of the condition.

Secondly as advised above, the applicants have a sound case for arguing that the permission is extant, notwithstanding the failure to agree the requirements of conditions precedent before works began. An attempt has been made to measure the positioning of the foundation trenches so as to establish that they match the layout which was approved. This is made difficult by the absence of a reliable plan, the file having been microfilmed. The position does not appear to accord with the reconstructed drawing but it is clear that the intention was to make a start on the proposed buildings. The discrepancy could be treated a minor amendment/ rectified without prejudice to the overall outcome.

The consequence of this is that the Local Planning Authority faces the real prospect of some form of development on the site. The issue is whether it should be that permitted or some form of more sustainable alternative.

Therefore, this application amounts to a substitution of the house types by a scheme which would be as, if not more acceptable, in terms of their impact on the countryside, for a lesser number of dwellings. In this regard these considerations outweigh the other matters. Granting consent for this proposal would not set a precedent due to the unique circumstances of the case and the absence of any comparable brown field land onto which to expand. Therefore this proposal would be more sustainable than the outstanding permission. Additionally, in the absence of an objection from The Highway Authority, there is not a sufficient argument for changes to the access.

In granting consent, however, it would be important that the reason for granting the permission in the first place should be reinforced, i.e. the provision of genuinely sheltered accommodation adjacent to the nursing home should be insisted upon by way of a Section 106 Agreement. The recommendation sets out to reflect this.

In conclusion, notwithstanding the fact that the application is in conflict with the development plan, the other very relevant consideration of the relationship to the extant permission is a legitimate overriding factor, such that it is not a major departure likely to prejudice the implementation of the development plan. Thus it does not warrant reference to the GOEM.

Recommendation

That subject to the applicants entering into a Section 106 Agreement providing for:

- the units to be occupied by no resident under the age of 55 years and
- supervision and nursing care to be maintained indefinitely by a recognised social housing provider, providing site supervision and response in the case of emergencies, **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.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990

2. Large scale drawings to a minimum Scale of 1:20 of external joinery, including sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

3. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the buildings are in keeping with their surrounding in the interest of the character and visual amenity of the area.

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

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

5. No development shall take place until precise details of the sources of illumination, including intensity, angling and shielding, and the area of spread of light have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them.

Reason: To preserve amenity and/or prevent danger to road users.

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

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

7. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

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

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

9. 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.

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.

10. With respect to any condition that requires the written approval of the Local Planning Authority, the works thereby approved shall be carried out in accordance with that approval unless subsequently otherwise approved in writing by the Local Planning Authority.

Reason: For the avoidance of doubt.

11. The areas shown on the submitted plan no 1876/2/6 for the parking and manoeuvring of vehicles shall be laid out, hard surfaced and marked out prior to the first use of the development hereby permitted. Thereafter those areas shall remain unobstructed for their designated use.

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

12. 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.

13. 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.

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

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

25/09/2001

Item A12**Reg. No.** 9 2001 0740 F**Applicant:**

A B Produce Plc
 Woolstich Farm
 Netherseal
 Swadlincote
 Derbyshire
 DE12 8BT

Agent:

Christopher Timothy
 C T Planning
 19 Bird Street
 Lichfield
 Staffordshire
 WS13 6PW

Proposal: The redevelopment of mushroom farm and vegetable washing and packaging plant and farm worker's dwelling by the erection of 6 (No) dwellings and removal of agricultural occupancy from The Willows at Woolstich Farm Clifton Road Netherseal Swadlincote

Ward: Netherseal

Valid Date: 27/07/2001

Introduction

Members will recall having been minded to approve a similar application in April 2000, the application was called in for determination by the Secretary of State and a Public Inquiry held in October on the grounds that the application appeared to raise issues of wider than local importance.

The application was subsequently refused on the following grounds:

- a. Woolstich Farm would be an unsuitable location for residential development because it is physically distinct from the village and is in an isolated position in otherwise open countryside
- b. Netherseal is a relatively isolated village with only a limited range of facilities and bus services.
- c. Clifton Road would not provide for a safe or convenient route to the village from the site and therefore the development would place reliance on the car to meet many of the residents everyday needs contrary to the advice set out in paragraph 2 of PPG 3.
- d. Notwithstanding the financial assistance it would give to the company as a major employer in the area, the current use of the land for employment generating purposes was said by the applicants to be likely to continue and would be lost if it were to be redeveloped for housing.
- e. Although it was claimed that the proposed development involves the use of '*previously developed land*', Annex C to PPG 3 exclude agricultural land from that definition. The operations currently being carried out at the site are primarily agricultural in nature.

He concluded that the proposal would result in the development of a housing estate in an inappropriate and unsustainable location and lead to the loss of a land use that provides a valuable source of rural employment.

Since that time further meetings have been held and a further application now submitted. The previous report to committee is attached for reference.

Site Description

See annexed report.

Proposal

The submitted scheme shows five 19th century barn style dwellings arranged around a courtyard, the replacement of the 1960's house with a house of more traditional appearance, and the whole site surrounded by new forest planting.

Applicants' supporting information

The applicant's agent has submitted a supporting statement, the planning considerations section states:

"It is acknowledged that the application site is located outside of the Village Confines of Netherseal as defined in the South Derbyshire Local Plan. The site is, therefore, to be regarded as being in open countryside. However, it is considered that there are material considerations in favour of the proposed redevelopment of Woolstitch Farm for housing which, when weighed in the balance against the Policy presumption against the redevelopment of the site, weigh in favour of planning permission being granted.

Highway Considerations

It is evident that since its formation in 1988, A. B. Produce PLC has diversified its agricultural activities and has continued to grow at its premises at Woolstitch Farm. The company now specialises in the processing of vegetables. It is evident that as the use of Woolstitch Farm has intensified, the movement of heavy vehicles through the village has caused growing concerns to local residents. These concerns relate to highway safety and to problems of noise, disturbance and vibration.

Whilst the Inspector who considered the previous application of this site acknowledged (paragraph 42) that a reduction in heavy goods traffic from Woolstitch Farm "*would benefit the amenities of local residents*", he nevertheless stated (paragraph 40), that there was no evidence on highway aspects that whatever evidence was before him was limited and conflicting. In support of this application, A. B. Produce PLC have instructed JMP Consultants Limited, Consulting Civil, Structural and Transportation Engineers to carry out a traffic generation comparison for Woolstitch Farm. The findings of JMP Consultants Limited are reported in their letter to CT Planning of the 4th July, 2001 (submitted as part of this application). The report from JMP Consultants Limited indicates that the total daily motor vehicle traffic flows generated from the existing site is 182, of which 82% are cars, 4% are light goods vehicles and 14% are other goods vehicles. On the basis of the information obtained from the Trics Database, JMP Consultants Limited indicate that a residential development of six large detached houses at Woolstitch Farm would result in a total daily motor vehicle flow of some 37 vehicles with 92% of these vehicles movement vehicles being by car.

JMP Consultants Limited have also given consideration to the implications for traffic generation were the existing buildings at Woolstitch Farm to be used for alternative generating uses. For a B1/B2 use, they indicate that motor vehicle traffic flows would be some 300 vehicles per day. The percentage of goods vehicles for such use is likely to 24% even greater than the existing sites proportions of goods of vehicles (18%).

In these circumstances, JMP Consultations Limited reached the following conclusion:

"It is clearly evident from the data produced that a residential development on the Woolstitch Farm site would generate the least amount of traffic and would be less disruptive in the early hours of the morning. The proportion of goods vehicles as well as actually number of goods vehicles would be considerably lower if the residential development went ahead.

"Both alternative employment uses examined would generate a larger number of traffic movements than the existing use. The proportion of goods vehicles would also be higher for the alternative employment uses."

Viability

It is evident from consideration of previous applications at this site, that there is considerable local opposition to the further expansion of the activities of A. B. Produce PLC at Woolstitch Farm. The company has made a decision to entirely relocate its operations to a new site at Westminster Industrial Estate at Measham. The proposed redevelopment of the application site for housing is seen as necessary for the viability of the company to relocate to Measham or, indeed, any other locations.

As part of this application submission, a report has been produced by the accountants to A. B. Produce PLC and by A. B. Produce PLC themselves. These reports assess the financial viability of the proposals to relocate the company from Woolstitch Farm to Measham or, indeed, any other location. Securing the redevelopment of Woolstitch Farm is seen as being vital to any proposal to relocate the company. Without the redevelopment of Woolstitch Farm, the move to Measham is not financially sustainable.

Scale of Development

This application seeks the redevelopment of the existing range of buildings at Woolstitch Farm together with an existing agricultural worker's dwelling by a development of some six dwellings (a net gain of five dwellings). In terms of their scale, the proposed dwellings would have a floor area of some 2,250 square metres. This compares with the existing buildings within the site that have a floor area in excess of 4,500 square metres. Consequently, the proposed development will have a floor area, some 50% less than the existing buildings.

In respect of the location of the proposed residential development, it is evident from drawing 643/17, that the proposed new dwellings can be undertaken wholly within the footprint of the existing buildings.

The scale of development proposed for the redevelopment of Woolstitch Farm in this revised application has been reduced from eleven dwellings to six dwellings. It is submitted that this scale of development is sufficient to fund the relocation of A. B. Produce PLC. The net addition of five new dwellings in this location is considered, in terms of the scale of development, to be relatively small scale. As such, this small scale development is not regarded as being wider than local significance. Consequently, in this respect, the small scale nature of development would not undermine the thrust of National and Local Planning Policies that are concerned with

“concentrating most additional house development within urban areas” (paragraph 21 of PPG3).

Design

The proposed replacement dwelling for the farm worker’s dwelling will, in terms of its appearance and proportions, appear as a traditional farmhouse. The additional five dwellings are to be formed within five new buildings that have been specifically designed in terms of their proportions, layout and materials and in terms of their siting relative to the house, to reflect the appearance of agricultural buildings. The proposed dwellings are predominantly single storey in height, although there are two storey elements within the centre of the site. The layout scheme has been conceived to appear as a traditional farmhouse together with a range of attendant outbuildings. To this extent, the development would have the appearance of *“new build barn conversions”*. Barn conversions are evidently a form of residential development that can successfully be assimilated into the countryside.

Visual Amenity

The existing buildings at Woolstitch Farm comprise modern metal clad warehouse style barns. These buildings have a floor area in excess of 4,500 square metres and average heights of some eleven metres.

The proposed redevelopment of Woolstitch Farm envisages a mixture of single storey and two storey structures with the proposed development not exceeding some 8.2 metres in height. The two storey elements have been carefully located within the centre of the development. Furthermore, the proposed dwellings will be traditional in terms of their design, appearance and materials. Consequently, the proposed development would be acceptable in this location in terms of its design and would evidently be more attractive in visual terms than the existing buildings on the site. The proposed development would be relatively inconspicuous on account of their location to Clifton Road and having regard to the extensive tree planting proposed as part of the application scheme.

The application site is located within the National Forest. Extensive areas of woodland planting are proposed in conjunction with the proposed development. The proposed woodland would significantly enhance the appearance of the area and fulfil the objectives of the National Forest.

Conclusion

It is evident that there are significant considerations that weigh in favour of the redevelopment of Woolstitch Farm for residential development. The proposed development will secure a significant environmental improvement by the removal of large, modern agricultural type buildings. The proposed residential development has been carefully designed to suit the particular circumstances of the site in terms of its scale, character, design and materials of construction. The proposed residential development will have significant benefits in terms of removing traffic through Netherseal, particularly by heavy vehicles. The proposed development is seen as essential in order to enable A. B. Produce PLC to move to alternative premises and accrue the significant benefits provided by this development. In these circumstances, it is recommended that planning permission be granted.”

With particular regard to the issue of the removal of the agricultural occupancy condition on “The Willows”, the company’s accountants have written to state that given the amount of borrowing required by the company net of its cash position and the proceeds of the sale of Woolstitch Farm, it is essential that Mr Bridgen is able to offer his property as security for part of the loan. This would only be possible if the dwelling could be sold on the free market. It

also makes the point that the property and its grounds also make up a considerable part of the landscaping area for the whole which, if excluded, would detract from, the total package.

Planning History

See attached annex.

Responses to Consultations

The Parish Council states the following:

- a. The removal of the agricultural occupancy condition should be treated as a separate issue and should go through the proper process to avoid setting a precedent.
- b. The development for six houses is supported in the interests of the long-term benefits for the removal of HGVs, pollution and noise problems associated with the current use. However, the use should not set a precedent for the infilling of adjoining land.
- c. The development should be screened with fast growing trees and native deciduous trees for long term screening.
- d. To allow the lane to return to its original setting, the passing places should be removed and no footpath constructed. However if a footpath is deemed necessary, it should be set back from the carriage way.

The County Highway Authority states the following:

The history of the site in terms of its perceived effects in traffic generation terms is well documented. A recent application (Ref 9/2000/0138) for 11 dwellings on the site was considered acceptable in principle from a highway aspect since, although the development would be unlikely to materially alter the overall number of vehicle trips, it would result in a decrease in heavy goods vehicles using Clifton Road through the village.

The current proposal would inevitably result in a decrease in traffic flows compared to the existing use and, most likely, in comparison to reuse of the premises for other commercial purposes. However, it considers that the applicant's consultant's estimate of 37 trips generated by 6 dwellings to be surprisingly low but would require submission of full details of the sites selected from the TRICS database to comment further in this respect.

As before, the County Highway Authority recommends that permission should be conditional upon no dwellings on the site being occupied until a footway has been provided between the access serving the site and a point in Netherseal village to be agreed, in accordance with a detailed scheme first submitted to and approved by the Local Planning Authority.

Finally, it is assumed that the roadways within the site would be constructed in a form which would probably be unsuitable for adoption as highway maintainable at public expense. In the circumstances the applicants should be required to enter into a Section 106 Agreement to the effect that prior to the commencement of the development they will form a Management Company for the purpose of managing the common parts of the developments including the future maintenance and repair of the roadways and, furthermore, that a restrictive covenant be imposed upon every lessee or purchaser to the effect that at no time would adoption of any part of the roadways as highway maintainable at public expense be sought.

The Environment Agency and Severn Trent Water have no objections.

Responses to Publicity

Approximately 73 letters of support have been received making the following comments:

- a. The mushrooms are the only crop grown at the site and it is understood that even these are in doubt.
- b. The noise of forklift trucks and refrigeration units affects the quality of life of those living nearby.
- c. Effluent on the site is stored in lagoons which when emptied causes bad smells.
- d. Pollution from the site has twice killed fish in a nearby pond. A nearby water course which feeds the River Mease still occasionally get polluted.
- e. The company operated a fleet of 38 ton lorries which together with lorries from suppliers, contractors and employees and service vans are constantly on the move to and from the site on a single track road and adversely affect the amenities of the residents of the village.
- f. The proposed development would be infinitely preferable to the current industrial site which could otherwise be sold on for an even worse use.
- g. The current factory is an intrusion into the landscape. The replacement buildings would be a great improvement.
- h. The company should be encouraged to move to enable it to reduce its current environmental risk levels thereby enhancing employment security and enabling future business expansion on a new, purpose built safe site important for the local economy. Local suppliers would be given greater confidence and security because increased volumes of local raw materials would be required for processing.
- i. This is an application of an intensely local nature and can have no bearing on wider planning issues at either county or national level and therefore should not be the subject of any pronouncement by distant offices.

Letters of support have also been received from the National Farmers Union, Business Link Leicestershire, the Institute of Directors and the East Midlands Development Agency all of which conclude that the relocation of the company would be beneficial to the company, its employees and the local economy.

Structure/Local Plan Policies

See annexed report.

Planning Considerations

The main issues central to the determination of this application are as set out in the annexed report except that this application also includes the removal of the agricultural occupancy condition which requires consideration with regard to Planning Policy Guidance Note 7.

Planning Assessment

The current application differs for the previous application in a number of ways.

Firstly the application has been scaled down. Whereas the previous application involved the erection of eleven dwellings, the current application shows five dwellings, the replacement of the existing farmhouse, and the removal of the agricultural occupancy condition. The applicant company has also described it's financial circumstances in more detail than before including accounts produced by a firm of chartered accountants that demonstrate that the relocation to

Measham can only go ahead with the proceeds of the sale of Woolstitch farm for an enhanced sum. The removal of the agricultural occupancy condition is also an essential part of this equation.

However, it remains the case that, even with the reduction in scale of the development, it is contrary to the development plan for the reasons stated in refusing Application 9/2000/138/F and endorsed by the inspector in his recommendations on the call-in inquiry App/F1040/V/00/000153. In the ordinary course of events, granting permission for 5 new dwellings in the countryside, even on a brown field site, would raise a significant issue of prejudice to the implementation of the development plan. Bearing in mind the sequential test set out in Planning Policy Guidance Note 3 (PPG3), the modest requirement for new housing in the Structure Plan Area can all be accommodated within the urban area and a more, rather than less, restrictive approach will emerge in the local plan review.

Accordingly, in the event that the Committee were to wish to grant permission, the application falls to be referred to the Secretary of State (being within the scope of paragraph 3(c) of the Development Plans Direction 1999).

The question for the Council is whether the other material considerations weigh sufficiently against policy to warrant an approval and, so far as consideration by the Government Office is concerned, whether there are issues of more than local importance involved that would warrant a further inquiry in the wider national or regional interest?

Officers have worked with the agent to secure a modest, low-impact development that would fit into the countryside appropriately. Visually a considerable improvement could be expected, as claimed by CT Planning.

One issue which has become particularly significant over recent years is the strength of feeling against the continued expansion of the industrial processes at the site. There have been public meetings at each of the recent stages of the expansion of the premises from which Members as well as officers and the applicants have experienced considerable criticism when permissions have been granted. Public perception is a material consideration, albeit one only requiring weight to be attached in accordance with generally acknowledged issues of importance. In this instance it is not so much the alleged highway dangers, since there is no highway objection, but there is a strong perception that heavy traffic day and night is out of character with the sleepy, rural character of the village and detrimental to its amenity.

The applicant's perception that further expansion of their enterprise on its existing site is not only unwelcome but likely to meet with substantial opposition even from the Council is not unreasonable. Diversification can no longer be prayed in support of further expansion on the site, since, contrary to the perception of the inspector, it is already substantially in industrial use. Mechanised food preparation is not agriculture. Any further expansion along the lines of the applicant's stated business projections would raise issues of the continued industrialisation of the countryside. Moreover, they have now made it clear that removal of the business, lock stock and barrel is the only feasible option, since relocation in any event relies upon the capital receipt from the site, (contrary to the conclusion in para 34 of the inspector's report). Moreover, unless one took an artificially narrow view, the employment generator would be preserved within commuting distance by bicycle, if not on foot, to the general approval of all concerned, not least because the nuisance of heavy traffic in Netherseal would be removed. This also differs from the inspector's conclusion.