

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

This section includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) and responses to County Matters.

Reference	Item	Place	Ward	Page
9/2010/0760	1.1	Milton	Repton	1
9/2010/0860	1.2	Foston	North West	8
9/2010/0899	1.3	Walton on Trent	Seales	14
9/2010/1084	1.4	Hilton	Hilton	18

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

1. The issues of fact raised by the Head of Planning Services' report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Head of Planning Services, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Item 1.1

Reg. No. 9/2010/0760/NO

Applicant:
Mr Philip Watson
3 Grenville Croft
Chellaston

Agent:
Mr Christopher Stone
Christopher Stone Architect
111 London Road
Derby

Proposal: THE REMOVAL OF EXISTING STABLES TO PROVIDE
NEW STABLES, MANEGE AND INCREASED WIDTH
FOR SITE ENTRANCE AT 7 MAIN STREET MILTON
DERBY

Ward: REPTON

Valid Date: 25/08/2010

Reason for committee determination

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

Site Description

The application site is situated on the edge of Milton village within the conservation area and consists of the main dwelling and garden/yard, an existing partially demolished stable building and an area of paddock. The site is surrounded by residential properties on three sides with open countryside to the rear. A wooden animal shelter is sited on the neighbouring land to the east.

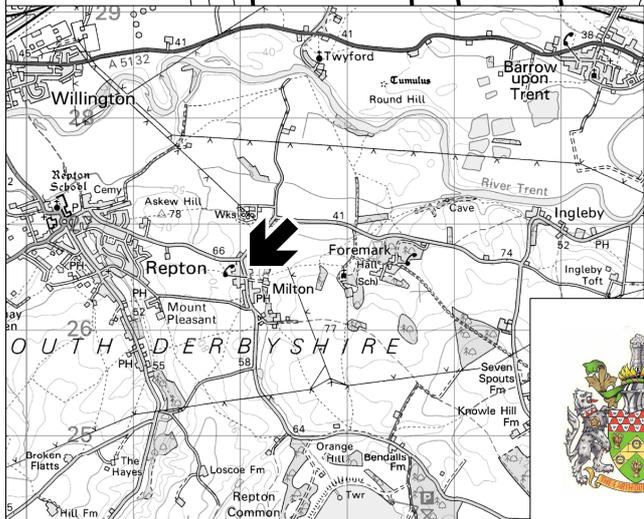
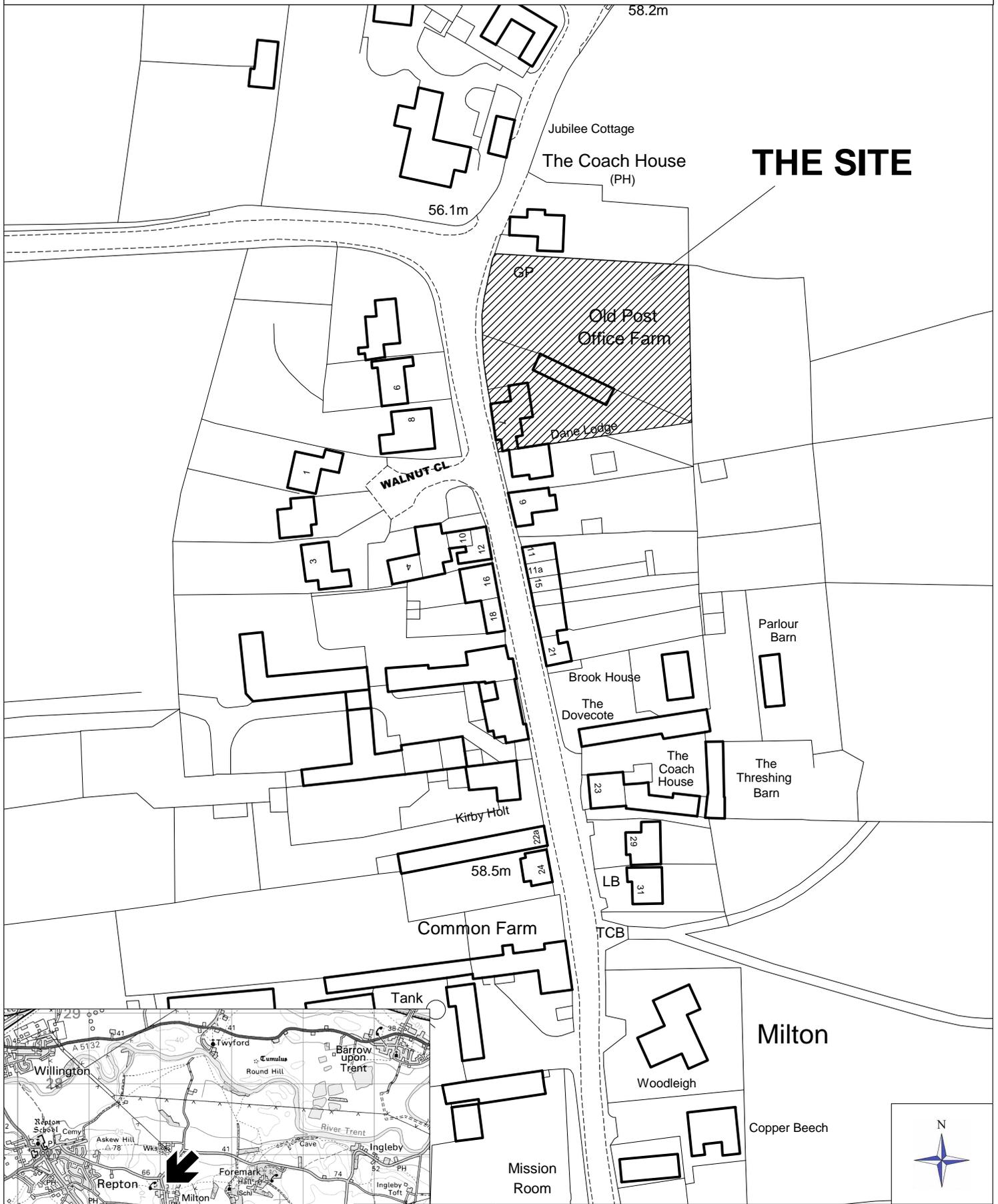
Proposal

The application proposes the complete demolition of the existing stables and the erection of a slightly larger stable to the rear of the site along the boundary with Dane Lodge together with the provision of a manege.

A conservation area application to demolish the stables has been submitted in conjunction with this application.

Applicants' supporting information

A Design and Access Statement has been submitted with the application which advises that the existing stable block is awkwardly positioned in relation to the house and that a new stable block would be better positioned for the owner and the horses.



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Planning History

Permission for alterations and extensions to the main dwelling was permitted in September 2010.

Responses to Consultations

The Design and Conservation Officer has no objection. The former stable was of little intrinsic merit and no strong group value. Its main function appeared to be one of providing strong visual separation between the garden/yard and paddock. The paddock, as a grassed and simple space, does contribute to the character of the conservation area and it is desirable that it be firmly separated from the domestic curtilage by walls, to preserve the rural feel of the area. The retention of the back wall of the existing stables and the link to the proposed new building and existing front wall by new lengths of walling should produce a coherent appearance and reinforce this sense of enclosure.

Environmental Health has no objection. Stables have previously existed on site which is in a rural location where one might expect stables to be. The new stables face away from the neighbour which could reduce the potential noise by the block acting as a barrier to noise. Whilst it would be preferable to relocate the stable to the northeast of the site away from the neighbouring property there is no objection to the scheme as submitted.

The Contaminated Land Officer has no objection.

The Highway Authority has advised that whilst it is recognised that the site access is substandard there is no objection subject to the stables and manege being for personal use only.

The Council's Drainage Officer has no objection subject to the submission and implementation of a scheme for the replacement or restoration of the existing surface water culvert that crosses the site.

Repton Parish Council has raised the following objections:

- Inadequate information on proposals for the drainage of surface water. There is evidence that an existing culvert is unable to cope with heavy rainfall, leading to surface water collection on the highway at the entrance to the property.
- The proximity of the proposed stables and kennels are unacceptably close to adjacent residential accommodation and will adversely affect the neighbour's amenity.
- The site is within Milton Conservation Area. It would be preferable for existing old buildings to be adapted and reused rather than a new building constructed.
- A restriction should be imposed to prevent commercial use.

Responses to Publicity

Five letters of objection (four from the same person) have been received and the concerns are summarised below:

- a) The stables were part of the village's character and to demolish them is taking part of the village history away.
- b) An underground culvert takes surface water from the road beneath the applicant's property and to the neighbouring paddock beyond the rear boundary, into a farm ditch and a brook. There is an existing build up of water which is already causing erosion and flooding to the paddock.
- c) No surface water from the proposed development should be directed into the culvert or other natural water courses/soakaways which would result in increased flooding to my property.
- d) The culvert which crosses the site has a relatively high invert and care should be taken to ensure that it is not further compromised during building operations.
- e) Where would manure be stored?
- f) Vision from the site entrance is often obscured by parked cars and the other side is in close proximity to a road junction which has been the site of many minor incidents.
- g) Animals and manure produce smells and attract flies. The proposed building poses an environmental health risk given the scale of the building, the number of animals to be housed and the proximity to a private residence.
- h) The proposed kennels so close to residential property could potentially cause noise disturbance.
- i) It would be more sensible to site the stables and manure management along the rear boundary and away from existing residential property.

National Guidance

PPS4 and PPS7

Development Plan Policies

The relevant policies are:

Local Plan: Saved Environment Policies 1 and 12

Planning Considerations

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

- Principle of development
- Impact on character and appearance of the Conservation Area.
- Impact on residential amenity
- Drainage
- Highway Safety

Planning Assessment

Principle of development

The proposed stables and manege are an acceptable form of development within a rural location in accordance with Saved Environment Policy 1 subject to there being no

adverse impact on the rural character of the area and being designed and located so as to create minimal impact. The relocated stables would replace an existing brick and stone stable block on site albeit on a moderately larger footprint but would be well related to the existing dwelling and boundary structures. The location of the manege would maintain the open rural character of this part of the site and the use of floodlighting could be prohibited by condition to avoid any potential adverse visual and amenity impact.

Impact on character and appearance of the Conservation Area

The retention of the rear stone wall of the existing stable block and the linkage of new walling with both the new building and existing boundary walls would assist in providing a cohesive development well related to the existing dwelling whilst maintaining a sense of enclosure. The proposed alterations are an adequate replacement for the existing structures and are not considered to harm the character and appearance of the conservation area in accordance with the requirements of Saved Environment Policy 12.

Impact on Residential Amenity

The original submission located the stable block 1m away from the neighbouring boundary with Dane Lodge. Various alternative locations were explored with the applicant post submission to relocate the stables further away from the neighbouring boundary however the applicant considers that the scheme as submitted with the stables backing onto the southern neighbouring boundary is the most suitable as the building would screen animal activities from neighbours and provide the applicant clear site of the horses from the house. The position of the stables has however been amended to locate the rear elevation 1.8m away from the neighbouring boundary. The stable doors and main focus of activity would be directed away from the neighbouring boundary and a condition could be required for the submission of a scheme for the satisfactory disposal of manure. Stables and equestrian uses are not uncharacteristic of activities found within such rural locations and Environmental Health has no objection.

Drainage Issues

The site is located in an area subject to surface water flooding. Further investigation of the site identified a surface water culvert which crosses the site from west to east over which the proposed manege would be constructed. The culvert continues through the neighbouring land and into a ditch to the east of the site. The Council's Drainage Officer is satisfied that subject to a condition for the submission of a scheme for the replacement or restoration of the culvert the development would not have any adverse impact on flooding within the vicinity of the site. A further condition requiring details of the methods to be used in the construction of the manege would ensure that the culvert remains unaffected by the development. In addition to the culvert, additional plans have been received proposing a new surface water drain across the manege and southern boundary of the site which would connect to the existing public surface water sewer that crosses the site the details of which would be agreed by condition in consultation with Severn Trent Water.

Highway Issues

Whilst the visibility of the existing access to the site is considered substandard the use of the stables and manege are intended for personal use only and could be conditioned as such. It is not considered that the proposed development would lead to any increased detriment to highway safety.

Conclusion

The proposed development is considered an acceptable use within this rural location and has been designed and located so as to create minimal impact on the character of the conservation area in line with policy. The focus of activity has been directed away from the neighbouring property and subject to the drainage conditions outlined above it is not considered that the development would exacerbate any flooding issues within this location.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing Rev A received 17 December 2010 and the access gated details received 4 October 2010.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Large scale drawings to a minimum Scale of 1:10 of eaves and verges shall be submitted to and approved in writing by the Local Planning Authority prior to construction. The eaves and verges 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 the submitted details, the gable ends of the new building facing west and north shall be constructed of solid nine inch construction, with all external surfaces faced in brickwork, unless otherwise agreed in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the area.
6. The retained and new boundary walls shall be coped with shaped clay or natural stone copings (where the walling is of brick), and with natural stone copings (where the walling is of stone), samples of which shall be submitted for approval in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the area.
7. The finished height of the new and retained boundary walls shall be agreed in writing with the Local Planning Authority before the copings are installed.
Reason: In the interests of the appearance of the area.
8. The finish and colour of the external structural timberwork and external joinery of the new stables shall be agreed in writing with the Local Planning Authority prior to implementation.
Reason: In the interests of the appearance of the area.
9. Precise details, including paving patterns, specifications and samples of the materials to be used in the hard landscaping works, shall be submitted to and approved in writing by the Local Planning Authority before the landscaping work is carried out. The work shall be carried out in accordance with the approved details.
Reason: In the interests of the appearance of the area.
10. Gutters and downpipes shall have a black finish.
Reason: In the interests of the appearance of the building(s), and the character of the area.
11. Prior to the commencement of development a scheme for the replacement or restoration of the existing surface water culvert that crosses the site shall be submitted for approval in writing with the Local Planning Authority. The submitted scheme should include specifications of pipe material and grade, details of inspection chamber construction and pipe bedding and surround detail. The works shall be carried out in accordance with the approved scheme.
Reason: In the interests of flood protection.
12. Notwithstanding the submitted details, prior to the commencement of the development details of the construction methods for the manege in relation to the surface water culvert shall be submitted for approval in writing with the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To ensure that the new or restored surface water culvert is not adversely affected by the development and in the interests of flood protection.
13. 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.

Reason: In the interests of flood protection.

14. The stables and manege hereby permitted shall not be used other than for personal use and no operations involving commercial use of the facilities provided as part of this application shall be carried out within the lifetime of the development.

Reason: In the interests of highway safety.

15. A scheme for the disposal of manure shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use. Manure shall be disposed of in accordance with the approved scheme in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

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

16. There shall be no floodlights.

Reason: In the interests of the appearance and amenity of the area and nearby residential properties.

Informatives:

The storage of stable manure and bedding should be sited so as not to cause odour or other problems to residents in the area.

There should be no burning on site of the used straw bedding or manure.

Item 1.2

Reg. No. 9/2010/0860/U

Applicant:
Mr Edgar Bentley
Woodside Farm, Woodyard Lane
Foston
Derby

Agent:
Mr Stuart Taylor
Ashbourne Road
Hammerson Fields
Church Broughton

Proposal: THE CHANGE OF USE FROM HAULAGE DEPOT TO
COMMERCIAL AT WOODSIDE FARM WOODYARD
LANE FOSTON DERBY

Ward: NORTH WEST

Valid Date: 27/09/2010

Reason for committee determination

The application represents development that is not strictly in accord with the Development Plan but the recommendation is one of approval.

Site Description

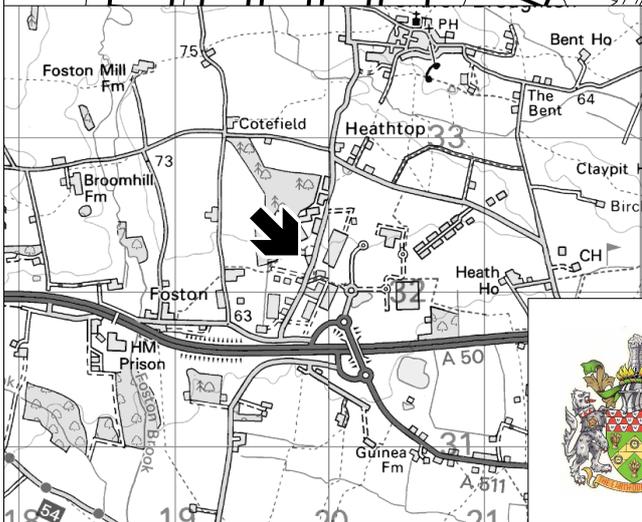
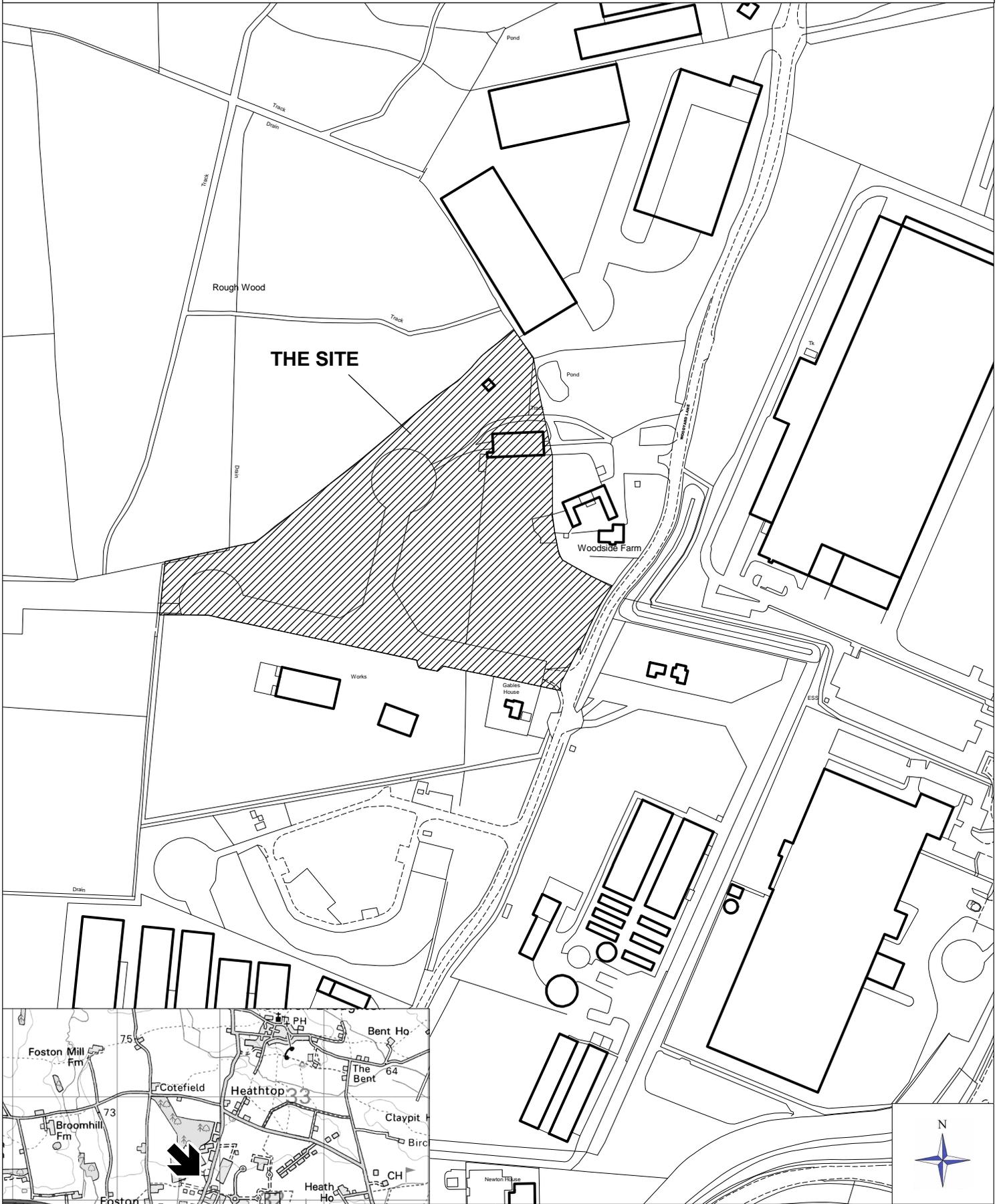
The application site boundary has been amended so that the farmhouse and outbuildings together with a wooded area to the north are now excluded. The current proposal would therefore occupy an area comprising the yard to the existing long established haulage business and an area of paddock immediately adjacent to Woodyard Lane.

Beyond the woodland to the north of the site is an area of unoccupied warehouses. There is also a large area of woodland to the north-west. To the west is land in the ownership of ATL Transport, which has planning permission to expand the business onto an area of previously undeveloped land. To the south the site is bounded by a tanker refurbishment business. Access will be from Woodyard Lane that forms the eastern boundary to the site.

Opposite the access on Woodyard Lane is the MPP Pig Farm, which has planning permission for warehousing should the pig farm be relocated. There are also other business uses such as Futaba located beyond Woodyard Lane.

To the south of the access there is a dwelling known as Gables House which whilst originally granted permission as part of the established haulage business is now in separate ownership.

9/2010/0860 - Woodside Farm, Woodyard Lane, Foston DE65 5PY



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Proposal

The application has been amended to remove the B1 use on the basis of concerns raised about traffic generation and policy considerations. The application therefore seeks permission for the use of the existing haulage yard and adjacent paddock as B8 warehouse use. If the principle is accepted and permission granted then details of any buildings and layout would follow as separate applications.

Applicants' supporting information

The applicant contends that the site was formerly part of the Church Broughton Airfield and there are many other similar types of use surrounding the site. The Council's Economic Development Strategy suggests the encouragement of new businesses within the District adjacent to the A50 road network. A transport assessment has been prepared that demonstrates a reduction in traffic from the site compared to that that could be generated if the existing site operated at full capacity. The site is situated close to the A50 and far enough away from Church Broughton and Foston to have no impact on the volume of traffic to both the villages and surrounding area. There is more than ample parking for any number and type of vehicles. The proposal complies with Local Plan Employment and Environmental Policies.

Planning History

Bentley's Haulage is a long established business on Woodyard Lane. In the past permission was granted for the expansion of that haulage use onto land adjacent to the original site but the tanker refurbishment business has since become established on that land. Part of the application site is currently used for the storage of portable buildings that undergo some refurbishment whilst at the site.

Responses to Consultations

Foston and Scropton Parish Council have no comment on the application.

The Highways Agency has no objection.

The County Highway Authority has no objection subject to conditions together with the requirement for a Section 106 payment of £15,000 towards improvements to the highway verges and structure in the vicinity of the site.

The County Archaeologist is satisfied that the proposals will have no archaeological impact.

Severn Trent Water requires the submission of foul and surface water disposal arrangements prior to the commencement of any development.

Responses to Publicity

One letter of objection has been received and is summarised as follows:

- The transport yard has expanded in the past few years apparently without planning permission, at least the objector was not notified of the existence of a planning application.

- Since the expansion there have been problems with surface water flooding on the highway that extends into the objectors' property.
- There is also concern that the operating hours of the new premises would result in lorry movements to and from the site outside the hours imposed on WG Tankers on other land adjacent to the objectors' house.
- These hours of operation were imposed by the Traffic Commissioners in the interests of the environmental conditions experienced by the occupiers of that dwelling.
- There is also concern about the extra lorry traffic.
- Objects to the loss of agricultural land.

National Guidance

PPS 4 – Policy EC 6.2, EC10.1, EC12.1

PPG 13 – paragraphs 40 & 44

Development Plan Policies

The relevant policies are:

EMRP: Policies 1, 3, 12, 20 & 24.

Local Plan: Employment Policy 5.

Planning Considerations

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

- The Development Plan and other policy and guidance.
- Impact on the countryside
- Impact on the amenity of neighbours.

Planning Assessment

The Development Plan and other policy and guidance

PPS4, Policy EC6.2, says that in rural areas local planning authorities should strictly control economic development in open countryside away from existing settlements or outside areas allocated for development in development plans.

Local Plan Employment Policy 5 directs industrial and business use in rural areas to locations within or on the edge of existing villages provided that the scale and character of the proposal is compatible with that of the settlement.

Local Plan Environment Policy 1 indicates that outside settlements, new development will not be permitted unless essential to a rural based activity or unavoidable in the countryside and the character of the countryside, the landscape quality, wildlife and historic features are safeguarded and protected. It says that if development is permitted in the countryside it should be designed and located so as to create as little impact as practicable on the countryside.

The RSS similarly directs development to sustainable locations whilst recognising that the development needs of rural areas need to be met.

However, elsewhere in PPS4 it says that local planning authorities should adopt a positive and constructive approach towards planning applications for economic development and recognises that sites need not necessarily be accessible by public transport.

PPG13, Para 45 says that where possible warehouse and distribution uses should be located away from congested central areas and residential areas and ensure adequate access to trunk roads.

Impact on the countryside

There have been decisions in this locality that have allowed the expansion of existing firms that have left the application site surrounded by existing development or land with permission for warehouse development. In particular the redevelopment permitted at the pig farm, warehousing, and the expansion of a haulage business based at the former hanger at Woodyard Lane. It could therefore be argued that the existence of such development mitigates against the usual presumption against speculative built development in the countryside.

Part of the application site itself is already used to store portable buildings; the other part is very 'rural' in appearance being used for grazing livestock and having several substantial oak trees. To the north and northwest boundary is a substantial area of trees forming a solid boundary to that part of the site currently used for haulage purposes. The site is therefore surrounded by either commercial development and woodland although some of the latter is not in the ownership of the applicant. Impact on the countryside will therefore be minimal.

Impact on the amenity of neighbours

Other than the applicant's house the nearest dwelling likely to be most directly affected by development lies to the south of the existing access into the site. It is substantially screened from the proposed development by a dense conifer hedge and the access already serves the existing haulage uses on the site.

In granting an Operator's Licence for Peter Stott Plant/Haulage Ltd for a site on Woodyard Lane the Traffic Commissioner attached conditions relating to hours of operation. A similar condition relating to any grant of permission for the current application site would be reasonable and is included in the recommendation.

Conclusion

Local Plan Environment Policy 1 and Employment Policy 5 do not allow for new industrial and business development in this location. However, the justification for Environment Policy 1 indicates that its purpose is to preserve the countryside and protect the best agricultural land. The justification for Employment Policy 5 refers to the need to avoid giving rise to unacceptable disturbance or cause intrusion into open countryside.

Regional Plan policy justification refers to the overarching policy of urban concentration, which is rooted in the need to encourage sustainable access and regenerate areas of deprivation. The need to reduce the need to travel and to encourage the use of more

sustainable modes of transport underpins the advice in PPG13, however, para 18 indicates that *storage and distribution development represents an exception to this general approach* and para 45 says that such uses should be located away from congested central areas and residential areas and ensure adequate access to trunk roads.

Taking the above into account, whilst the need for sustainable access and preference for brownfield development should be accorded some weight, these must be balanced against the PPS4 requirement for the local authority to take a positive and constructive approach to economic development. Also given the lack of impact on the open countryside due to the specific circumstances of this site, measures to protect the amenity of the individual residential property and that traffic considerations can be satisfactorily addressed it is felt that the application should be supported.

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

Subject to the receipt of a signed unilateral undertaking providing for the payment of £15,000 towards the improvements of the verges and structure of Woodyard Lane in the vicinity of the application site **GRANT** permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended site location plan marked Amended 25/10/10 received on 5th November 2010 and the letter confirming B8 use as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) as set out in your letter dated 20 January 2011 received on 24th January 2011.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Approval of the details of the layout, scale, appearance of the buildings on the site and the means of foul and surface water disposal together with the landscaping proposals shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application as submitted contains no details of the development and the Local Planning Authority has to ensure that the details are satisfactory prior to the commencement of the development.
4. No deliveries shall be taken at or despatched from the site outside the following times 0600 - 2200 Monday to Friday and 0900 - 1600 on Saturdays nor at any time on Sundays, Bank or Public Holidays. There shall be no parking of vehicles originating within the application site or delivering to it on the access drive adjacent to Gables House Woodyard Lane Foston Derbyshire.

Reason: In the interests of the maintaining the amenity of the occupiers of Gables House Woodyard Lane Foston Derbyshire.

5. Before any other operations are commenced space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives and visitor's vehicles, loading and unloading of goods vehicles, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

6. Prior to the first use of the development hereby permitted, the land in advance of the sight lines measuring 2.4 metres measured along the centreline of the point of access x 90 metres in each direction along the nearside carriageway edge shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level, 0.6 metres in the case of vegetation relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

7. The development shall not be commenced until precise details of the intensity, angling and shielding, and the area of spread of the lights 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. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve the residential amenity of the occupiers of adjacent dwellings.

Item 1.3

Reg. No. 9/2010/0899/NO

Applicant:
Mr Paul Clewes
Walton Cricket Club
Station Lane
Walton on Trent
Swadlincote

Agent:
Mr Paul Clewes
Walton Cricket Club
Station Lane
Walton on Trent
Swadlincote

Proposal: THE ERECTION OF EXTENSIONS TO THE CLUB HOUSE, ERECTION OF DETACHED GARAGE AND INSTALLATION OF NEW CRICKET NETS, POLES AND HARD STANDING AT WALTON CRICKET CLUB STATION LANE WALTON ON TRENT SWADLINCOTE

Ward: Seales

Valid Date: 11/11/2010

Reason for committee determination

Councillor Timms has requested that this application be brought before the Committee as matters of local concern have been expressed about a particular issue and he believes that the committee should debate the issues in this case which are very finely balanced.

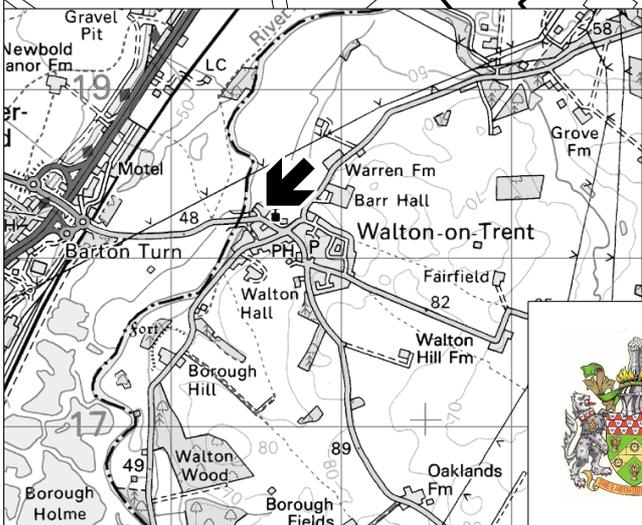
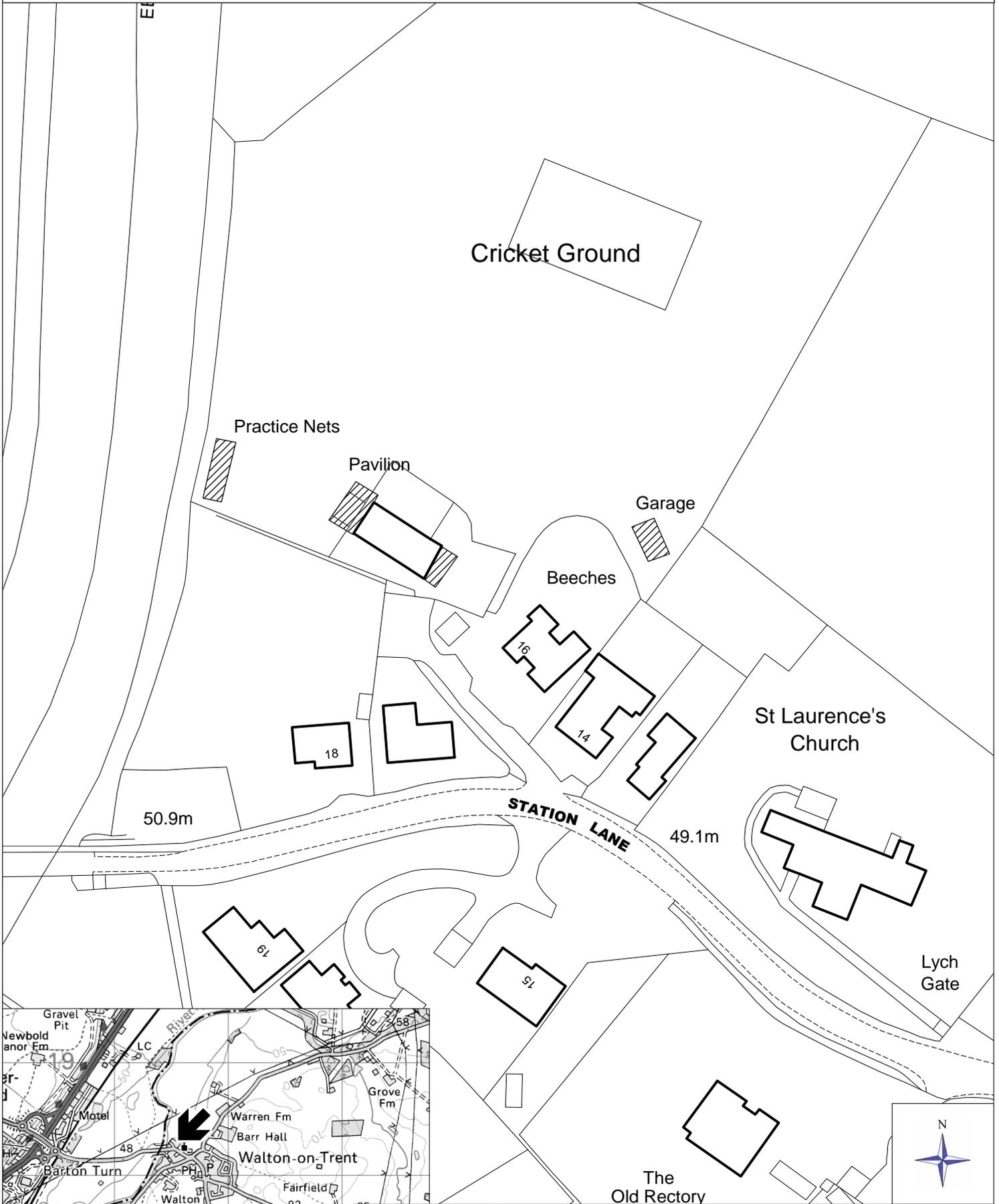
Site Description

Walton on Trent Cricket Club is located to the north of Station Lane, at the bottom of the lane and backs onto open fields and the River Trent beyond. It is located within Flood Zones 2 and 3 and is outside the conservation area of Walton on Trent. To the south of the site are residential properties set in large gardens, and access is obtained from Station Lane.

Proposal

The application submitted is for two small side extensions to the existing pavilion to provide enlarged facilities and also a score box, a detached double garage and also retrospective permission for the erection of new practice nets. There are proposed extensions either side of the existing pavilion and these would measure approximately 1.7m in width (to the west) and 6m in width (to the east) with the extension to the west being as the existing pavilion and the extension to the east being 1.8m deeper than the existing pavilion. Also proposed is a score box being 2m x 2m. The detached garage

9/2010/0899 - Walton Cricket Club, Station Lane, Walton-on-Trent DE12 8NA



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proposed would measure approximately 5.6m x 5.8m and would be 2.4m in height to eaves and 4m to ridge. The practice nets are 3m in height on poles and 30m in length.

Planning History

9/1994/1069 - The erection of a single storey extension on the south-eastern flank and a veranda at the front – approved.

Responses to Consultations

The Environment Agency does not raise any objections to the application as submitted as the application is for a non- residential extension with a footprint of less than 250sq.metres.

Local Ward Member Councillor Timms advises that issues had been raised regarding the retrospective nets being too close to 16 Station Lane, the proposed garage would generate noise and smells from mowers and will increase traffic and the proposal will increase the amount of traffic using the access road.

County Archaeologist does not raise any objections as there is unlikely to be any archaeological impact from the proposals.

The Pollution Control Officer does not raise any objections.

County Highways do not raise any objections.

Responses to Publicity

One neighbour letter of support has been received stating that the Cricket Club goes from strength to strength and it brings an income to Walton on Trent, has thriving youth teams, keeps children off street corners and provides a good safe area for families.

Three neighbour letters of objection have been received. The concerns noted are:

- The proposed extension will reduce the access through the club entrance gate, it will reduce the ability to turn around on site and leave in a forward gear, narrowing an already restricted access for delivery lorries, refuse collection wagons and sewage pumping vehicles
- Access to neighbouring properties will be blocked if access to the club is restricted as it will back up on Station Lane
- New parking spaces are shown on the plan, these will reduce access onto the site
- The proposed extension for social facilities will entail excessive traffic using a very narrow driveway, creating noise and disturbance
- The proposed garage is located adjacent to the conservation area and it will have a detrimental impact on the conservation area
- The proposed garage is to be sited in front of an operational Severn Trent Water pumping station, which would restrict access to the pumping station.
- The proposed garage should be located within close proximity to the club house site if to provide storage for the club

- The proposal will intensify the use of the premises, resulting in increased traffic movements
- Much of the site lies within the flood plain and the application does not fully assess the impact of the proposal on the flood zone
- The proposed extension to the south west could impact on the Severn Trent Water easement which runs along the site of the existing club house
- The nets should be taken down out of operational hours to discourage people from entering the site unlawfully and damaging neighbouring properties
- The proposed detached garage will impinge on the outlook from 12 Station Lane
- The proposed garage will affect the trees root system of Beech trees in the area
- Flooding has occurred in the past on this site and the proposal will lead to more flooding

National Guidance

PPS 1 & 5 and PPG 17

Development Plan Policies

The relevant policies are:

RSS8: Policies 3 and 4

Saved Local Plan: Community Facilities Policy 1

Planning Considerations

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

- Development plan policy and national guidance and advice
- The impact of the proposal on the neighbours.

Planning Assessment

Planning Policy Guidance 17 seeks to ensure that where recreational land and facilities are of poor quality or under-used it should not be assumed that this is an indication of an absence of need in the area. Local authorities should seek opportunities to improve the value of existing facilities and this application seeks to do this.

The application proposes two moderate side extensions to the existing premises which will ensure larger facilities are available on site i.e. an increased kitchen, committee room, changing facilities, club room and a new score box. The proposed extensions are sited at least 20m away from the nearest neighbouring property and will not have any detrimental impact on neighbours.

These proposals will be built as the existing premises, on brick piers to allow for the free flow of flood water should any flooding occur. The Environment Agency does not raise any concerns regarding this application as it is for a non - residential extension with a footprint of less than 250sq.metres. The proposed double garage has been sited away from the flood plain and will not be visible from the highway; having been designed to be in keeping with the area with brick soldier courses, timber doors and a tiled roof. The existing premises will be clad with cedar boarding and this will visually enhance the existing premises, which is in need of refurbishment.

The proposals will provide enhanced and improved facilities. Internal storage for machinery in the proposed garage will enhance the site for visitors and neighbouring properties. The design of the building will be in keeping with the existing premises, in scale, character and form, and will ensure the continued use and viability of the area and facility and accordingly complies with Saved Community Facility 1 of the South Derbyshire Local Plan and the recommendations in PPG 17. No concerns have been raised by County Highways and they are satisfied that the majority of vehicle movements (at present and in the future) will involve turning left into the site and exiting the same way, therefore they do not raise any objections to the proposal as submitted.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the garage have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

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

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

Informatives:

Severn Trent Water advise that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2001 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

Item 1.4

Reg. No. 9/2010/1084/B

Applicant:

Mr JM Cawley & J Ward
Hilton Caravan Site
Sutton Lane
Hilton

Agent:

East Midlands Planning Aid Service
Mr S W Bate
C/o Applicant

Proposal: THE VARIATION OF CONDITION TWO OF PLANNING PERMISSION 9/2009/1018 (GRANTED AT APPEAL) TO ALLOW FOUR CARAVANS PER PITCH RATHER THAN THE TWO PERMITTED AT SUTTON LANE HILTON DERBY

Ward: HILTON

Valid Date: 26/11/2010

Reason for committee determination

The Head of Planning Services considers this to be a controversial application where the Committee needs to carefully consider the issues.

Site Description

The site is enclosed by roads on three sides and by a haulage use on the southern boundary. Access is from the 'old' Sutton Lane via two access points permitted when the site was granted planning permission on appeal. Landscaping provided as part of the construction of the A50, to the 'new' Sutton Lane screens the development from the west and that landscaping extends around the north boundary of the site. Opposite the site to the east is the Hilton Gravel Pits nature reserve that is a designated SSSI.

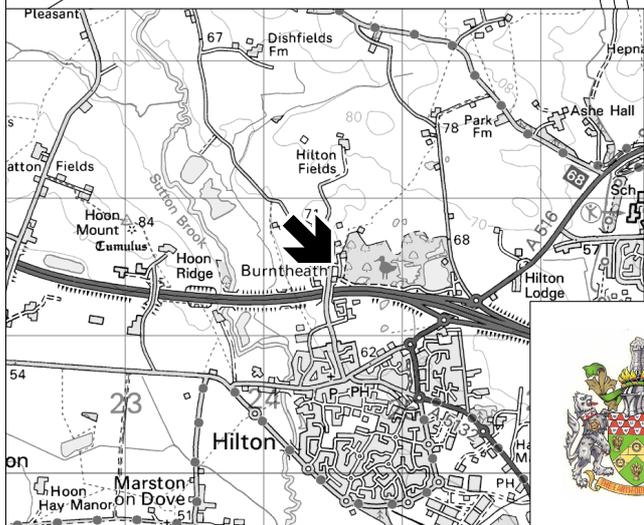
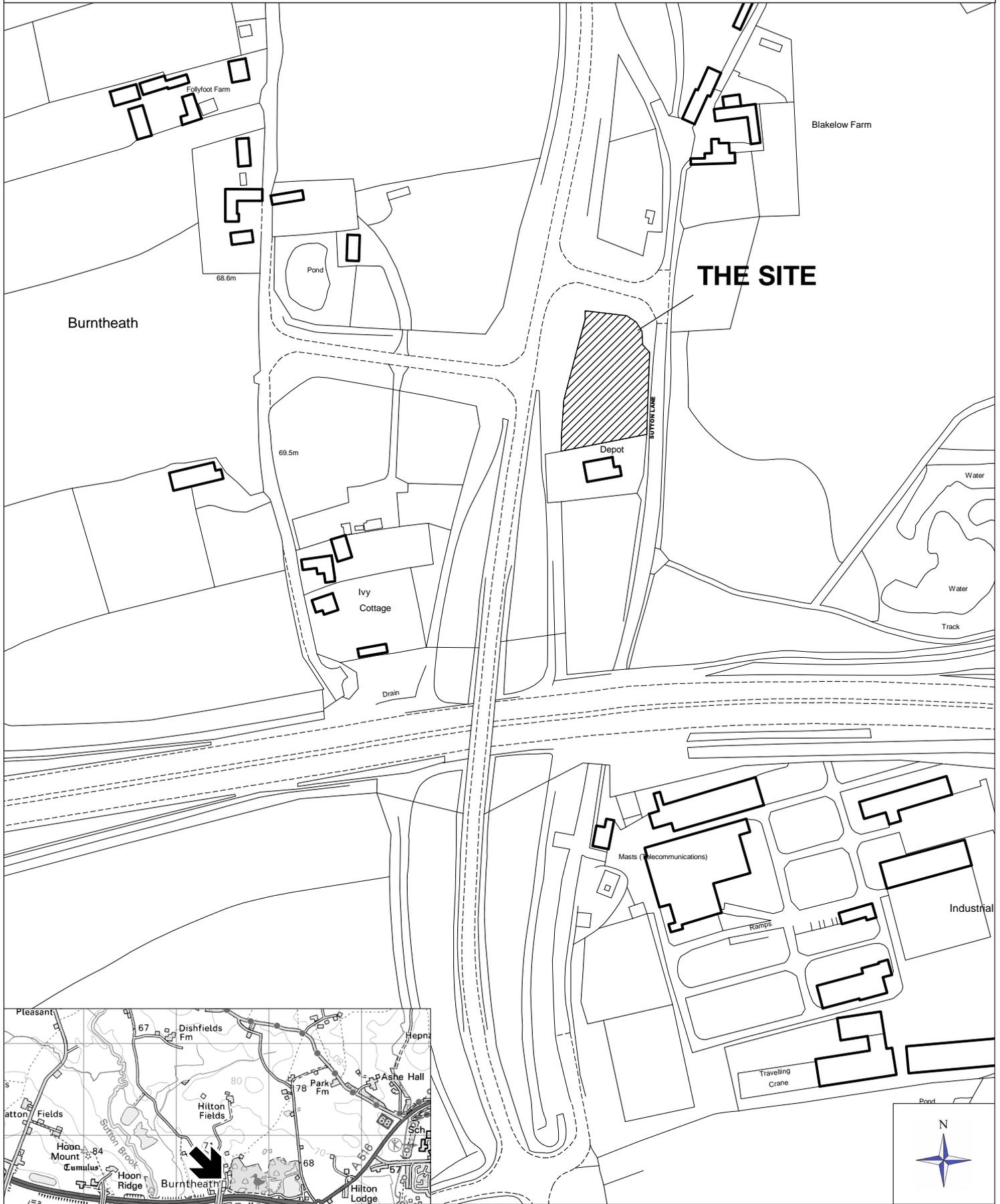
Proposal

The application seeks permission to vary Condition 2 of planning permission 9/2009/1018 to allow the stationing of an additional 2 caravans (a static home and a touring caravan) on each of the authorised pitches. The application also seeks the retention of a steel container, a lean-to structure that has been erected as an extension to the container to keep a horse and store hay and feed, the retention of a dog kennel and metal pen structure and the retention of a garden shed used for general storage.

Applicants' supporting information

The additional caravans are requested to allow other members of the applicants' families to live on the site in particular Mr Cawley's eldest child who has recently

9/2010/1084 - Sutton Lane, Hilton DE65 5FE



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married. It would also allow for parking of other relatives caravans to temporarily stay on the site when visiting rather than use unauthorised roadside pitches.

The applicants contend that the development is in accord with national advice and local and regional planning policy. It is stated that the current pitches could easily accommodate the additional caravans.

It is also stated that there would be negligible increase in traffic and the site is well screened. The additional structures are in the main located in the northwest corner of the site where screening is at its densest and as such they are considered to accord with the requirements of Housing Policy 15 and are also necessary to the Gypsy/Traveller way of life. They are successfully assimilated into the surroundings. There would be no demonstrable adverse effect on the surrounding area or on any other interests of acknowledged importance

Planning History

Planning permission for the caravan site was granted on appeal following refusal on the basis of the noise impacts from the adjacent haulage yard on the site occupiers. The conditions imposed by the Inspector that required discharge have been discharged. The current permission allows 2 caravans on each pitch one of which can be a static caravan or mobile home provided that these comply to the definition of a caravan in the Caravan Sites and Control of Development Act 1960

It became apparent that more than the permitted number of caravans were regularly being kept on the site and that structures had been placed on the land that did not have the requisite planning permission. Gypsy/Traveller sites are a use of land, and, as such, there are no permitted development rights attached to the use. Accordingly the owners were contacted and advised of the breach of condition and the lack of planning permission for the buildings. This application has been submitted to seek retention of the extra caravans and the buildings.

In granting the original planning permission the Inspector made the following comments in his report – “There is a need to limit the number of pitches and caravans on the land in the interests of the appearance of the area and to accord with the details submitted in the planning application....”. [This is commented on in the ‘Planning Assessment’ section below].

Responses to Consultations

Hilton Parish Council is not against traveller sites per se but would like to encourage the prior submission of planning applications rather than the retrospective application that seem to be the norm and Hilton Parish Council strongly objects to the development on the principle that retrospective applications are unacceptable. The applicants are in breach of their planning permission in that twelve caravans have been observed on the site where the permission limits the numbers to 4; buildings and structures have also been put on the site and there is no evidence that the applicants have met the requirements of the original permission. The number of people on the site could be up to 16 who will produce a lot of sewage and foul water and this could present a health problem as the site lies on high ground above the village. The village facilities cannot accept any further development in particular the school and Doctors’ surgery.

The County Highway Authority has no objection provided that the parking and manoeuvring space previously approved is maintained as available.

The Environment Agency has no comment on the proposals. [The means of foul water disposal is to above ground tanks that are emptied on a regular basis.]

Natural England has no comment.

The Derbyshire Wildlife Trust considers it unlikely that the proposals would have any impact on the great crested newt population or any wider impact on the SSSI.

The Environmental Protection Manager has concerns about the means of foul water drainage currently on the site, the above ground tank system is not ideal and additional units may be problematic. It is understood that the occupiers are looking for an alternative means of disposal and that one will likely be found. Therefore the concern is not considered sufficient to justify recommending refusal of the planning application. Any discharge would require approval from the Environment Agency.

The Development Control Archaeologist considers the proposal would have no archaeological impact.

Responses to Publicity

31 letters have been received objecting or commenting on the application in the following terms:

- a) The applicants should be made to abide with the original agreement and the application should be refused; no further caravans should be permitted. The Gypsy/Travellers stated that the number of caravans reflected their needs – it begs the question whether the Inspector was misled.
- b) It seems that the site is being increased in increments and almost amounts to blackmail. The site is not large enough to accommodate all the uses they are applying for. The relatives referred to could be accommodated on other authorised sites. No one at Burnt Heath is in favour of the sites at Hilton and whilst small in number, the community at Burnt Heath is against the development.
- c) The school and doctors cannot cope with any more development.
- d) There have been up to 12 vans on the site at any one time with a concurrent increase in traffic movements.
- e) The occupiers have failed to comply with the requirements of the planning conditions to submit further details. The Inspector's decision said that certain matters had to be discharged within 3 months, this has not been done and the Inspector required that the use cease within 28 days if the condition was not complied with. There have been fires at the site and the fire service has attended, this is also in breach of a planning condition.
- f) The site is being used as a smallholding, horses graze on the verges and dogs run loose and chickens are kept on the site. This causes a danger to passing motorists.
- g) The site is contaminated.
- h) There is an increasing amount of litter being left in verges and the adjacent nature reserve.

- i) People feel intimidated when trying to access the nature reserve due to barking dogs and being watched.
- j) The use of the site will prejudice the wildlife in the reserve.
- k) The area is being swamped by unlawful development and retrospective planning applications.
- l) There are numerous Gypsy/Traveller in the wider area around Hilton, Hatton, Foston and Church Broughton and there must be a limit for such sites especially when other districts have none. The site does not meet government guidelines. The total for Gypsy/Traveller provision in South Derbyshire has almost been achieved; there is no need for more pitches.
- m) The views of the local community have been ignored and this may be a breach of the settled community's human rights. There have been no increases in local service provision to match the expansion of Hilton.
- n) There have been problems with Travellers in a local pub and on public transport; this does not seem commensurate with teetotal law abiding, god-fearing members of society as they were promoted as when first seeking retrospective planning permission.
- o) The stable building was not on the originally submitted plan.
- p) The site lacks a suitable electricity supply and there is concern about how refuse vehicles would access the site.
- q) The loss in value of property to the settled community should be of high importance to the decision makers.

National Guidance

ODPM Circular 01/2006 – The government has repeated its intention to replace the circular with one that provides a lighter touch, as previously announced, and it is understood that public consultation on the new circular will be undertaken shortly. However, the Circular will remain a relevant material consideration until it is replaced; its importance decreasing the closer its replacement gets to being in place.

Designing Gypsy and Traveller Sites - Good Practice Guide

PPS 3 & 7.

Development Plan Policies

The relevant policies are:

RSS8 Policies 1, 2, 12 & 26

Saved Local Plan: Environment Policy 1 & Housing Policy 15.

Planning Considerations

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

- The principle of additional caravans on the site. .
- Government Advice and the Derbyshire GTAA.
- The impact on the wider countryside, the SSSI and the settled population.
- Breach of Current Planning Conditions

Planning Assessment

The principle of additional caravans on the site

The Gypsy/Traveller site is an established use of the land. It is correct to state that the Inspector limited the number of caravans on each pitch to 2; one static mobile home and one touring caravan. It is also correct that the applicants did indicate that the level of accommodation represented their requirements at that time. The Inspector also stated that the reason for imposing the limit was "...in the interests of the appearance of the area and to accord with the details submitted in the planning application....".

This is a strong indication that the site has some impact on the area. However, the main issue is whether allowing two additional caravans on each pitch and the additional structures would take the impact of the development to a point where the site is in breach of the requirements of Housing Policy 15 and thus the provisions of Environment Policy 1 whereby refusal of planning permission could be justified.

Government Advice and the Derbyshire GTAA

Circular 01/2006 remains relevant to the consideration of this application, as are the requirements of the Derbyshire GTAA. It is not known what form the revised advice from Government will take. From ministerial statements it is clear that the presumption in favour of sites being located in the countryside is likely to be removed. However, that does not mean that suitable sites in the countryside will not be forthcoming. In addition whilst the 'top down' requirement for gypsy/traveller sites is likely to change Authorities would still have to undertake surveys to establish the need for sites in their area as part of drawing up the LDF. At this point in time the GTAA is the most up to date study there is.

Thus, whilst the Authority has almost met its requirements in terms of pitch provision to 2012, the Regional Plan and the GTAA both call for ongoing provision beyond 2012 to meet the needs of families as they grow and need their own accommodation as well as the needs arising from inward migration. The advice therefore offers little support to the case for refusing permission as the applicant's argument is that the accommodation would provide for a married daughter i.e. meeting the needs of his family as it grows.

Impact on the wider countryside and the SSSI

It would be difficult to argue at appeal that the addition of two caravans on each pitch would materially affect the character and appearance of the countryside. The additional caravans would be seen within the site against a backdrop of existing caravans. When viewed from outside the site four more vans whether static or mobile would be substantially screened by peripheral tree planting and therefore would not be a significant intrusion into the countryside.

The structures are relatively low key; the outward facing sides of the storage container are a part of the stable/store that has been erected. The stable/store is a timber construction and in itself not particularly visually intrusive when viewed from outside the site even at this time of year and would be almost completely screened when the trees are in leaf. Again in itself visual intrusion is not considered a justification for refusing planning permission that could be substantiated when tested at appeal.

Consideration needs to be given to whether the Inspector would have found differently if faced with this level of activity on the site when he considered the appeal. The site is well screened by deciduous planting but at this time of year the site is at its most exposed. The main impact arises from the caravans, as they tend to be light coloured and therefore more apparent. However even with the increased numbers, it is considered that the caravans are not so materially harmful to the character of the surrounding countryside that the Inspector would have reached a different conclusion in respect of the appearance of the area.

Objectors' concern about the impact on the wildlife in the nature reserve are not shared by the Derbyshire Wildlife Trust as it has raised no objection to the expansion of the site.

Breach of current planning conditions

The applicants have submitted the details required by Condition 5 of the appeal decision and those details were accepted and are in the course of being implemented.

The number of caravans on the site suggested by objectors varies and it is unclear as to whether those on both sites have been combined in the figures. In total the number currently permitted on both sites is 12. When the application site was last visited on Friday 28th January, without any notification to the applicants, there were 8 caravans stationed on it.

Fires and business uses on the site have been reported as part of this process and investigations are underway to establish if there has been a breach of any of the conditions.

Conclusion

Having regard to the above considerations, the application is recommended for approval. The applicants are aware that any future structures on the site will require planning permission and the site is subject to an on-going investigation into its use for business purposes and the alleged burning on the site in contravention of Conditions 4 & 7 of the existing planning permission. Action under delegated powers would be taken should the allegations prove to have substance.

No additional conditions are proposed as the structures are not intrusive and do not require any additional measures to screen or colour them. The conditions attached to the original permission are included with this recommendation as it will be necessary, other than in regard to the numbers of caravans, to control development of the site in a manner consistent with the spirit of that required by the Planning Inspector.

Recommendation

GRANT planning permission subject to the following conditions:

1. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: In order that the site remains available to members of the gypsy and travelling community.

2. There shall be no more than 2 pitches on the site and on each of the 2 pitches hereby approved no more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time, of which only two shall be a static caravan or mobile home.

Reason: In order to control the number of caravans in the site.

3. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes in weight.

Reason: In the interests of appearance and the living conditions of the occupiers of the area.

4. No commercial activities shall take place on the land, including the storage of materials.

Reason: The site is situated in a countryside location where new business uses would not normally be permitted.

5. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure if within 3 months of the date of this permission the site development scheme approved by the local planning authority on 9th December 2011 in accordance with permission 9/2009/1018 has not been implemented in accordance with the approved scheme.

Reason: For the avoidance of doubt and to ensure that the permitted scheme is implemented in accordance permission granted on 30 July 2010.

6. No excavations shall be undertaken on the land unless a full contamination report has been submitted to and approved in writing by the local planning authority to demonstrate that such excavations can be undertaken without harm to the wider area. Any excavations shall be carried out strictly in accordance with any approved details.

Reason: Land beneath the site is contaminated and as such the Local Planning Authority needs to ensure that any works proposed will not disturb or interfere with contaminated material that may be harmful to the local environment.

7. No burning of waste materials directly on the ground shall be carried out anywhere within the site.

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

2. PLANNING AND OTHER APPEALS

Reference	Place	Ward	Result	Cttee/Delegated
E/2009/00030	Shortheath, Moira		Dismissed	Delegated
9/2010/0169	Coton in the Elms		Dismissed	Delegated



Appeal Decision

Site visit made on 10 December 2010

by Paul V Morris DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 January 2011

Appeal Ref: APP/F1040/C/10/2132325

Barratt Mill, Shortheath, Moira, Swadlincote DE12 6BL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr T Hartley Jnr against an enforcement notice issued by South Derbyshire District Council.
 - The Council's reference is E/2009/00030.
 - The notice was issued on 23 June 2010.
 - The breach of planning control as alleged in the notice is the erection on the land of a garden shed.
 - The requirements of the notice are to:
 - (1) permanently remove the shed from the land;
 - (2) permanently remove from the land the concrete base and foundations on which the shed is sited;
 - (3) remove from the land all building materials and rubble arising from compliance with requirements (1) and (2).
 - The period for compliance with the requirements is 60 days.
 - The appeal is proceeding on grounds (a), (b) and (g) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
 - An application for planning permission is deemed to have been made for the development to which the notice relates by virtue of s177(5) of the 1990 Act as amended.
-

Decision

1. I direct that the enforcement notice:
 - be corrected by deleting, in paragraph 3, the word: 'garden';
 - be varied by deleting, in paragraph 6, the words: 'By midnight on 21 September 2010, which is 60 days beginning with the day on which this notice takes effect', and inserting the words: '4 months from the date of appeal decision APP/F1040/C/10/2132325'.
2. Subject to this correction and variation, I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Application for costs

3. An application for costs was made by the appellant against South Derbyshire District Council. This application is the subject of a separate decision.

Ground (b)

4. The claim on ground (b) is that the breach of planning control has not occurred as a matter of fact. The appellant points out that the allegation is incorrect as it refers to a 'garden shed', whereas the building is not located in a garden.
5. The Council acknowledge that there may be a misdescription based on the information it received from the appellant.
6. Section 176(1)(a) of the Town and Country Planning Act 1990, as amended, provides that, on an appeal, I can correct a misdescription in the enforcement notice if I am satisfied that the correction will not cause injustice to, in this case, the appellant. To my mind, the deletion of the word 'garden' from the allegation would remedy the misdescription, and this would not cause injustice to the appellant, as there is nothing to suggest that the appellant would have been in doubt about the building to which the enforcement notice related.
7. Ground (b) fails.

Ground (a) and the deemed application

Main issue

8. The effect on the character and appearance of the local area.

Reasons

9. A public footpath goes north-east along the access to the house, Barratt Mill, and passes between the house and the pond in front. From this path, the shed is in full view. The shed is constructed from pale-coloured sheet metal panels, and it looks quite incongruous set into the edge of the woodland in an elevated position behind, and detached from, the house. I acknowledge that it is not generally visible from elsewhere, but as seen from the public footpath in this woodland setting, it is significantly harmful to the character and appearance of the local area.
10. I fully accept that users of the footpath will pass the prefabricated garages near the entrance to Barratt Mill, the fence of the house opposite the garages, and the domestic surroundings of Barratt Mill itself, but this is not a sound reason to add to the type of development which might detract from the rural setting.
11. I appreciate that the appellant may need to store some equipment used to maintain the adjacent woodland, but I have borne in mind the extent of the property and the opportunities for a more fitting position. I note the point that detritus from the previous coal industry use has been cleared, but the appellant has been the beneficiary of a planning permission to construct the house.
12. The South Derbyshire District Local Plan (1998), saved Environment Policy 1(iii), requires that new development outside settlements safeguards and protects the character of the countryside. I find that this development is in conflict with this policy.
13. Ground (a) fails.

Ground (g)

14. The appellant maintained that 4 months would be a more reasonable time for compliance to allow for the shed to be relocated after obtaining planning permission.
15. If relocation is to take place, and bearing in mind the date of this decision, I accept that it would be better to carry out the works when the ground conditions were more favourable, which would be likely in spring weather. With that in mind, I propose to vary the notice to allow a time for compliance of 4 months.
16. Ground (g) succeeds.

Paul V Morris

Inspector



Costs Decision

Site visit made on 10 December 2010

by Paul V Morris DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 January 2011

Costs application in relation to Appeal Ref: APP/F1040/C/10/2132325 Barratt Mill, Shortheath, Moira, Swadlincote DE12 6BL

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr T Hartley Jnr for a full award of costs against South Derbyshire District Council.
 - The appeal was against an enforcement notice alleging the erection on the land of a shed.
-

Decision

1. I refuse the application for an award of costs.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. In relation to the guidance in Circular 03/2009, Part B, paragraph 34 which refers to paragraphs 5-22 of Planning Policy Guidance (PPG) Note 18, the Council showed, on appeal, that it had reasonable grounds for concluding that the breach of planning control would unacceptably affect public amenity, and it was expedient to issue the enforcement notice. The Council gave reasons for the enforcement action in the enforcement notice, and supported these reasons in its appeal statement in relation to policy in the adopted South Derbyshire District Local Plan (1998) and other considerations. I appreciate that the appellant disagrees with the Council's assessment of the alleged development, but that does not provide justification for an award of costs.
4. As for the appellant's point that undue pressure had been exerted to relocate the shed, it seems that there was reasonable diligence by the Council in trying to deal with the breach of planning control through letters to the appellant and attendance at site meetings. However, it is apparent that the appellant remained of the view that the development was acceptable, with which the Council did not agree. In the circumstances, it was open to the Council to issue the enforcement notice if it considered it expedient to so do. It was open to the appellant to appeal against the enforcement notice, which he duly did. To my mind, the Council's conduct was not out of line with the guidance on enforcement proceedings in Planning Policy Guidance Note 18, Circular 10/97, Annex 2 or Circular 03/2009, Part B.

5. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Paul V Morris

Inspector



Appeal Decision

Site visit made on 5 January 2011

by Christopher Thomas BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 January 2011

Appeal Ref: APP/F1040/A/10/2137602

35 Coal Pit Lane, Coton-in-the-Elms, Swadlincote, DE12 8EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Ms C & M Brittain & Taylor against the decision of the South Derbyshire District Council.
 - The application Ref. 9/2010/0169/U, dated 23 February 2010, was refused by notice dated 21 April 2010.
 - The development proposed is change of use of agricultural land to garden land.
-

Procedural matters

1. The appellant, Miss Maxine Anne Taylor, is one of the two applicants named in the application.
2. The development has already taken place and accordingly I have dealt with this appeal as relating to an application under Section 73A of the Act.

Decision

3. I dismiss the appeal.

Main issue

4. The main issue in this appeal is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal site is a rectangular area of land amounting to approximately 0.64 ha in area. It is adjacent to the appellant's garden and to a driveway and garage which has access on to the lane. The former boundary fence which divided the plot off from the curtilage of the property has been removed so that there is no clear demarcation evident between them. The larger portion of the appeal site has been grassed and the remainder is in use as a cultivated garden on which have been placed two small garden sheds and a greenhouse. A concrete path has been constructed down the middle of the site. It is bounded by hedgerows on its two longer sides adjacent to a field and the lane, whilst a post and panel fence divides it from a similarly sized plot of land closer to the village.
-

6. The site lies outside the development boundary of the village and in policy terms therefore is to be regarded as forming part of the countryside surrounding the built-up area of Coton-in-the Elms. Saved Environment Policy 1 of the South Derbyshire Local Plan (adopted May 1998) (LP) seeks to prevent new development outside settlement boundaries except in particular, specified circumstances.
7. According to the appellant, prior to the work which has been carried out to implement the change of use the appeal site and the adjacent plot beyond the post and panel fence formed an area of rough, uncultivated ground with a substantial amount of undergrowth covering it. Its previous more natural character and appearance would therefore have had greater affinity with the fields and open countryside close by on the edge of the village rather than as an extension of the garden attached to the appellant's house. The change of use from open countryside to garden has already resulted, therefore, in a significant loss of rural character and degrading of the landscape quality of the surroundings, contrary to LP Environment Policy 1.
8. The appellant states that the intention is to further develop the land as a garden, which would erode any remaining countryside character and appearance that the land possesses. It is considered, therefore, that none of the exceptional circumstances referred to in the policy, which may have weighed in favour of allowing this change of use, would apply in this case.
9. For the most part the appeal site is well screened from the adjacent lane by the natural bank topped with a hedgerow, although partial views into the site can be gained from the access. Notwithstanding that the area of land is not highly visible, however, it is concluded that its transformation to a lawned and cultivated plot containing the present sheds and greenhouse, fencing and paths, together with any other domestic paraphernalia likely to be added in the future, is harmful to the character and appearance of the area, contrary to LP Environment Policy 1.
10. I have taken into account all other matters raised in the representations but for the reasons I have given the appeal has been dismissed.

Christopher Thomas

INSPECTOR