

REPORT OF THE HEAD OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Planning 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 also 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) responses to County Matters and submissions to the IPC.

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

1. The issues of fact raised by the Head of Community and 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 Community and 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. 9/2011/0910/SSA

Applicant:

ZOE SEWTER
SOUTH DERBYSHIRE
DISTRICT COUNCIL
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE

Agent:

MISS LAURA HAYWARD
HSSP ARCHITECTS LIMITED
44 ASFORDBY ROAD
MELTON MOWBRAY

Proposal: PROPOSED REDEVELOPMENT TO FORM NEW FACILITIES FOR RUGBY, FOOTBALL, CRICKET, TENNIS AND BOWLS. THE ERECTION OF A NEW CLUB HOUSE FLOODLIGHTING AND CREATION OF PARKING FACILITIES AT RECREATION GROUND COCKSHUT LANE MELBOURNE DERBY

Ward: MELBOURNE

Valid Date: 25/11/2011

Reason for committee determination

The Council is the applicant.

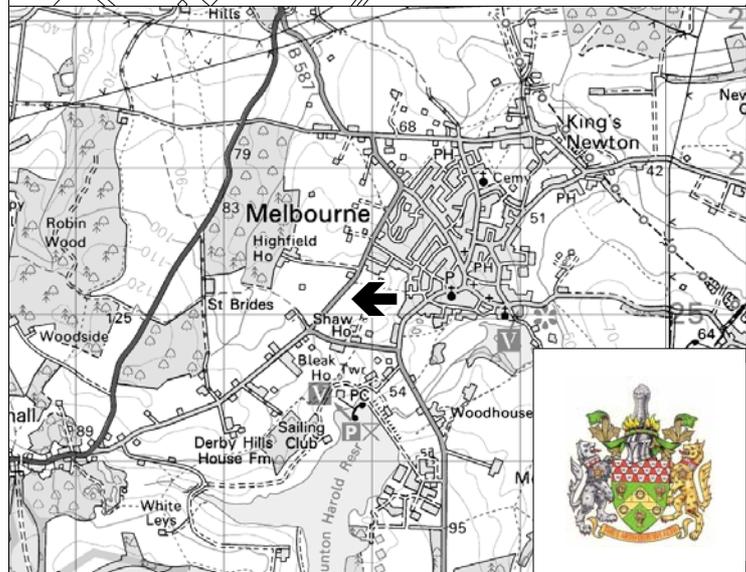
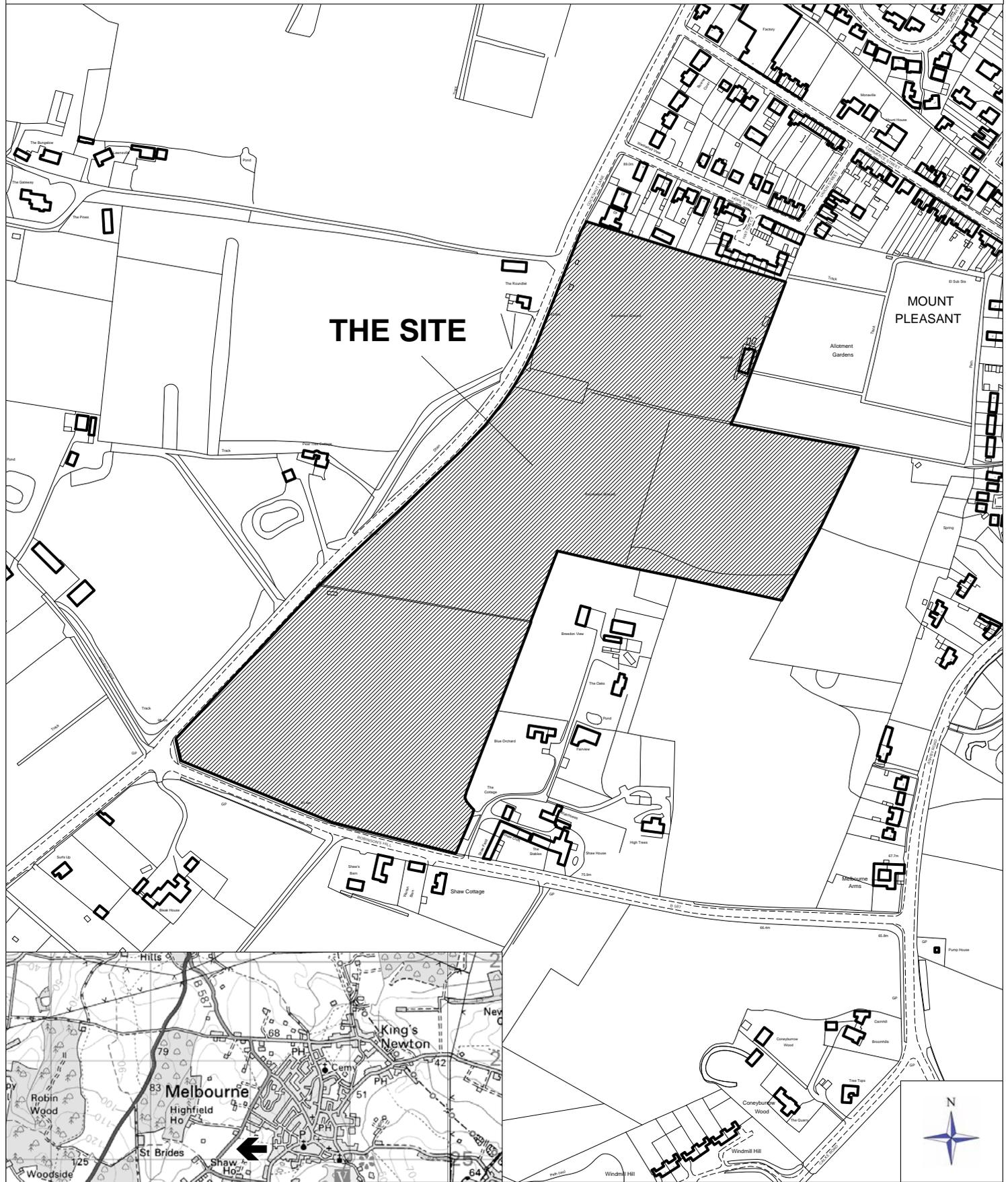
Site Description

The application site covers an area of approximately 10.6 hectares, is situated just outside the village confine of Melbourne and is located to the south east of Melbourne Centre. Cockshut Lane runs along the west boundary of the application site and to the south lies Robinsons Hill. There are dwellings located to the north and southeast boundaries of the site, allotments are located to the northeast and located approximately 95+m away from the application site to the east are dwellings. The west of the site mainly consists of fields with the occasional property. Sporadic dwellings are also located to the south of the site.

The current use of the site is a sports and recreation ground. The site includes 3 rugby pitches, 3 football pitches, 1 Cricket Square and pavilion, four metal containers/portacabins used by the rugby club as changing rooms/storage facilities and a limited amount of parking spaces.

There are two accesses to the site along Cockshut Lane. A public footpath runs from Cockshut Lane in the north west of the site, through the recreation ground to the residential area northeast of the application site. Established trees and hedges surround the site.

9/2011/0910 - Recreation Ground, Cockshut Lane, Melbourne, Derby
DE73 8FX



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Proposal

The application proposes the redevelopment of the existing sports and recreation ground at Cockshut Lane, Melbourne, to form new sporting facilities. The proposal includes the demolition of the existing cricket pavilion, the erection of a new sports pavilion, improved parking provision to include 201 spaces including disabled spaces, minibus and cycle spaces, improvements to both existing accesses to achieve a visibility splay of 2.4m x 120m, an internal access drive to link the two accesses together, a children's play area, the installation of floodlighting and the following sport pitches and areas:

- 1 full size football pitch
- 1 three quarter football pitch
- 1 mini football pitch
- 1 9 V 9 football pitch (floodlit)
- 2 full size rugby pitches (one with floodlights)
- 1 three quarter rugby pitch
- 1 rugby training area
- 2 cricket squares (1 overlapping with rugby)
- 1 cricket net area
- 3 tennis courts (floodlit)
- 1 bowling green

Applicants' supporting information

The proposal has resulted from many months of discussions with all of the sporting organisations currently using Cockshut Lane Recreation Ground and also those who will use it in the future. Each club's priorities for the ground and requirements for each sport have been established and catered for, to ensure that the proposed facilities accommodate the sporting needs of Melbourne in the years ahead.

The current layout of the site is poor and means that some of the pitches overlap, limiting the number of matches that can be played at once and contributing to wear and tear. The existing site levels and ground conditions also limit the potential of the site. The new proposal seeks to rectify these problems and maximise the use of the site to the benefit of the local community and sports clubs.

The proposed position of the sports pavilion is well sited in relation to the main sports. Football, rugby and cricket all have at least one pitch located in close proximity to the new sports pavilion. Hard surface pathways would be created to link the main sporting pitches to the pavilion. The proposed children's play area would also be in close proximity to the pavilion and could be easily watched by the users of the pavilion.

The sports pavilion has been designed with sustainability in mind. The design of clubhouse would maximise the use of solar gain during winter months and solar shedding in the summer. The building also proposes a mixture of natural and mechanical ventilation, and rainwater would also be collected from the roof for grey water harvesting which can then be used for pitch irrigation, wc flushing etc.

The lack of parking on the site currently limits its potential; the proposal seeks to increase the number of parking spaces and introduce disabled, mini bus and cycle parking areas, to encourage the use of sustainable methods of transport for both home and away teams. The main body of car parking would be located adjacent to the sports pavilion to ensure the pavilion maximises its full potential.

The proposal would not detrimentally impact on the ecology of the site. There is no evidence of bats, within the existing pavilion and Nesting birds would be protected by demolition work occurring between late August and mid February. The proposal is also seen to have no adverse impact on the nearby non-statutory designated sites.

The redevelopment would affect all users whilst the work is being undertaken; a phased approach therefore has been suggested to allow some usage of the site during the works

Planning History

9/2011/0179: the erection of a two lane all weather cricket net - granted

9/2011/0018: the erection of a two lane all weather cricket net - withdrawn

9/2010/0220: importing inert soil to restore an unusable sloping field and improve drainage - granted

9/2009/0538: the sighting of 5 portacabins and floodlight for side of main pitch - granted

9/2004/0062: erection of a club sign - granted

9/2003/0320: The erection of a new cricket score box - granted

Responses to Consultations

The Melbourne Parish Council fully supports the application and would be very happy to see it go ahead.

Melbourne Civic Society states that the proposal has been subject to widespread consultation prior to submission and is supportive of the application.

The National Forest Company requests the inclusion of conditions on any permission granted.

Severn Trent Water Limited has no objection to the proposal and has no further comments to make.

The County Highways Authority has no highways objections subject to the inclusion of conditions and informatives on any permission granted.

Environment Agency states that the proposed development will only be acceptable if conditions are imposed on any permission granted.

Peak and Northern Footpaths society object to the application. The society states that public footpath would be obstructed at its western end by the proposed car park and there seems to be no clear way through the car park on the existing definitive line of the path. This means that the path would have to be legally diverted, but there is no acknowledgement of this. Nor is it certain that a suitable alternative route for the path could be found. If any proposed diversion of the path does not meet the legal criteria then the path cannot be diverted, and the development of the car park could not

proceed, even if it had planning permission. It is also not clear from the documents that the surface and width of the remainder of the footpath as it crosses the recreation ground will be respected after the development, and this should be made clear before permission is granted.

Environmental Health (Contaminated Land) does not object to the proposal in principle. However it is recommended that a condition and informative be included on any permission granted.

Environmental Health requests the inclusion of conditions on any permission granted.

The Crime Prevention Officer states that it is a difficult balancing act to provide much needed public facilities whilst protecting the amenities and buildings against crime and anti social behaviour. Isolated facilities such as this site, at the extreme edge of the town do prevent nuisance to residential areas, but need increased protection due to the time, noise and opportunity the miscreant/offender can make or take. The Crime Prevention Officer recommends a list of safety precautions that could help protect the proposed development. [A condition could be imposed on any permission granted which would require the applicant to submit a scheme of crime prevention, which the Crime and Prevention Officer could assess, to ensure that the proposed safety measures are satisfactory].

The Rights of Way Officer (at DCC) states that the proposal would affect the line of footpath 18. To accommodate the footpath within the development it would be necessary for the applicant either to re-design the layout, or to obtain a diversion order under section 257 of the Town & Country Planning Act 1990. A temporary closure order would be needed for the affected part of the path whilst works are being carried out, and the applicant would be expected to fund this; no encroachment should be made onto the width of the path with fencing, tree planting etc; any damage to the path's surface caused during works would have to be repaired to Rights of Way Department satisfaction.

The Drainage Officer states that all Environment Agencies conditions should be complied with and requests the inclusion of an additional condition to control surface water runoff.

Sport England states that the proposal is both supported by the Councils Playing Pitch Strategy and by the various NGBs. The two main concerns relate to the quality and technical specification of the ground improvements and new facilities, the phasing of delivery and the business planning/governance sitting behind the proposal to ensure the development is fit for purpose and sustainable. Sports England also has two other concerns.

The importing of sub soil to address land levels could cause issues such as mud on roads, quality of the material, method of deposition/levelling and compaction as well as settlement, and any landscaping implemented should not have a negative impact on the capacity and playing surfaces. In conclusion Sport England's supports the proposal subject to the inclusion of conditions.

Responses to Publicity

Three neighbour letters have been received. There comments are:

- The Installation of the current cricket nets has caused noise nuisance early on weekend mornings. There is concern that more extensive works will disturb weekend rest.
- There is concern about the amount of soil being pushed over the fields from the proposed site. There is concern that there is no retaining barrier/wall and there seems to be no drainage (Comment: Planning permission 9/2010/0220 was granted for the levelling of the two full size and ¾ size football pitches in the east of the application site).
- There is concern about noise, low frequency vibration (e.g. from generators or other heavy equipment left running) and air blown dirt-causing nuisance at all times during development.
- Late night use of the current car parking is often a source of nuisance after 10pm. There are often noisy vehicles shining headlights into nearby bedroom windows. It seems the new design with additional parking may just encourage more illicit late night nuisance. What design steps are being taken to prevent this nuisance?
- There is concern that increased traffic due to use of the site would make access to and from Hope Street into/out of Cockshut Lane more difficult. Traffic at/exceeding the current 40mph limit already makes turning out of Hope Street to the north hazardous.
- Overflow on-road parking from the site is currently a hazard, with vehicles blocking the pavement and forcing southbound traffic into the path northbound. What steps would be taken to prevent this problem continuing – especially during the development works?
- Nearby residents, which are affected by light spillage, are omitted from the plans (amended plans have been produced to for clarification).
- The proposal includes considerable floodlighting which, given the existing light pollution from the rugby pitch, is likely to cause a nuisance.
 - a) An approach should be taken so that floodlighting to any sport pitch should not be used beyond 9.30pm, to avoid unnecessary light and noise pollution to nearby houses.
 - b) Light construction should be flat and low level for tennis courts in accordance with modern lighting standards. No light should be directed outside of the courts. If the tennis courts remain in the current proposed position, the planting of a line of trees between the courts and the road is necessary to avoid stray balls on the road. The tree line would also help with avoiding light pollution in the house opposite the tennis courts. There does not seem to be sufficient space on the submitted plan for such a barrier, so this option is not really viable.
 - c) If appropriate, car parks should be lit by 3 ft high illuminated poles, not floodlights of any kind, to avoid light pollution for both sports players and residents.
- Placing tennis courts in the vicinity of cricket fields should be avoided if possible, since both sports are likely to occur together. There are examples of injuries sustained from cricket balls landing in tennis courts, for example in Loughborough. One solution to the safety issue, the lighting spillage and stray balls on the road would be to swap the football mini pitch site with the tennis courts. Both pitches would not be in use simultaneously and there would be the benefit of having the tennis courts nearer the sports pavilion, so that matches could be viewed easily. The tennis court lighting would also not be so obtrusive to residents or distracting to road users.

- Given the considerable potential number of users of the sports pavilion, it is important that nearby residents should be protected from unnecessary noise and inconvenience by users of the pavilion. This might be achieved by the following:
 - a) Restricting the hours of opening especially when entertainment is being planned. No general music or entertainment license should be allowed. All events should be applied for specifically and limited in time and scope to avoid noise pollution to residents.
 - b) The sports pavilion should be closed normally by 10pm after all events have been completed. The current proposal for 11pm closing is not acceptable since cars would still be creating noise and light well after this time on leaving the vicinity.

Relevant Planning History

9/2011/0179: the erection of a two lane all weather cricket net - granted
 9/2011/0018: the erection of a two lane all weather cricket net - withdrawn
 9/2010/0220: importing inert soil to restore an unusable sloping field and improve drainage - granted
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Development Plan Policies

The relevant policies are:

East Midlands Regional Plan:
 Policy 2 Promoting Better Design
 Policy 3 Distribution of New Development
 Policy 41 Regional Priorities for Culture, Sport and Recreation

Saved Local Plan:
 Environment Policy 1: Development in the Countryside
 Community Facilities Policy 1: New Community Facilities
 Recreation and Tourism Policy 1: Recreation and Tourist Facilities
 Recreation and Tourism Policy 8: Public Footpaths and Bridleways
 Transport Policy 6: New Development

National Guidance

PPS1, PPS7, PPG17, PPG13.

Planning Considerations

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

- The principle
- Impact on the general character of the area
- Impact on the neighbouring dwellings
- Highway safety
- Design and Layout

Planning Assessment

The Principle

PPG17 states, *“Where recreation land and facilities are of poor quality or under used... Local Authorities should seek the opportunity to improve the value of existing facilities”*. *“Local Authorities should ensure that provision is made for local sports and recreational facilities (either through an increase in the number of facilities or through improvements to existing facilities)”*. This application proposes to do so, by both the improvement of existing recreation land and facilities and the introduction of new sporting facilities at the site.

The application site provides an appropriate location for the proposal. Due to the site’s existing use as a sports and recreation ground, the redevelopment of the site to provide improved recreation facilities for the village of Melbourne and the District, is appropriate and unavoidable in its rural location. The proposal is therefore in accordance with Environment Policy 1 of the Local Plan, which seeks to ensure that development in the countryside is unavoidable.

The application site is just outside the confine of Melbourne and would be easily accessible to the residents of the village. This complies with PPG17 which states that in rural areas *“... sports and recreational facilities which are likely to attract significant numbers of participants or spectators should be located in, or on the edge of, country towns. Smaller scale facilities will be acceptable where they are located in, or adjacent to villages to meet the needs of the local community.”*

Environment Policy 1 states that development will not be permitted unless the *“character of the countryside, the landscape quality... are safeguarded and protected”*. The proposal is considered not to detrimentally affect the rural character of the site, which Environment Policy 1 and PPS7 seek from development (this is discussed further on in this report).

Community Facilities Policy 1 and Recreation and Tourism Policy 1 seek to ensure that development does not cause disturbance to local amenity, adequate provision is made for pedestrian and vehicular access, parking, screening and landscape, and the development is appropriate in scale and design and well integrated with their surroundings (PPS7 and PPS1 also seek to achieve this). These matters are again discussed later, but it is considered that the proposal meets the criteria set out in the above policies. The proposal is also generally supported by EMRP policy 2, 3, and 41. Policy 41 which seeks to ensure (among other things) that there is an adequate provision of sports and reaction facilities consistent with the priorities for rural areas in policy 3. Policy 2 and 3 also require that development takes account of the character of the site.

The principle of the proposal is therefore acceptable.

Impact on the general character of the area

It is considered the application would affect the character of the site. The proposal would increase the amount of sports and recreation facilities that would occur at the recreation ground, increase the use of the site, and decrease the amount of undeveloped land at the site. Landscaping conditions could however be imposed on any

permission granted which would help soften the impact of the development, and ensure that the existing planting, which helps screen the recreation ground and integrate it with its rural surroundings, is kept or replaced.

The introduction of a sports pavilion with a large ground floor footprint (512sqm) in the north west of the application site would again affect the character of the site. Currently the only building on the site is a small-scale cricket pavilion in the northeastern boundary, which the application proposes to demolish. The sports pavilion however would be relatively low in height (4.8-7.7m) and the shallow pitched roof and overhanging eaves would help reduce its perceived mass. The proposed facing materials, red facing brick and timber, would help the pavilion assimilate with the character of the area, which has trees/woodland bordering part of the south and east boundaries of the site, and would help reduce the impact the pavilion would have on the site and its rural location.

Flood lighting currently exists at the rugby pitch in the western portion of the application site. The introduction of further floodlighting as proposed, would impact on the rural character of the area. However to ensure that the floodlighting proposed is appropriate for its location, a condition could be imposed which requires a floodlighting scheme to be submitted to satisfy the generally accepted industry standard for floodlighting in rural areas, set out by the Institute of Lights Engineers Guidance Notes for the Reduction of Obtrusive Lights (2011).

The application proposes to increase the amount of parking along the western boundary of the application site. The proposed parking would however be partially screened by the existing hedges along Cockshut Lane, reducing the visual impact it would have from this side.

Overall it is considered that the character of the countryside would not be unduly affected by the proposal. The application would be in accordance with Environment Policy 1, which seeks to protect the character of the countryside, Community Facility Policy 1, Recreation and Tourism 1 and PPS7 which seeks to ensure that development, is well integrated with its surroundings and PPS1 which encourages design to be appropriate in its context.

Impact on the Neighbouring dwellings

Community Facilities Policy 1 and Recreation and Tourism Policy 1 seek to ensure that development would not cause disturbance to local amenity by virtue of noise or traffic generated. The Environmental Health Officer observes that the tennis courts could cause unacceptable noise disturbance for nearby dwellings if used for sports other than tennis, but comments that this could be controlled by condition. Overall, on the advice of the Environmental Health Manager, it is considered that the noise and disturbance generated by the proposal would not be materially worse for the neighbouring dwellings than the existing noise from the application site, subject to the imposition of conditions to control times of use.

An amended floodlighting spill diagram has been produced. As such, the impact the proposed floodlighting would have on neighbours, including the nearest dwelling (to the west of the application site), would be acceptable, subject to further detailed control by condition.

Other than some relatively minor remodelling of the site, the land levels would be altered in two main areas, the mini football pitch and the floodlight grass training area. The nearest dwelling to the south end of the mini football pitch would be around 61+m away, and would be largely screened from the neighbouring dwellings by trees bordering the south edge of the site near the pitch. The nearest dwelling to the floodlit grass training area would also be a substantial distance away, 90+m and would be partially screened by trees opposite the application site. It is considered therefore that the levelling of these areas would not detrimentally impact upon any nearby dwellings.

The levelling of the full size and $\frac{3}{4}$ size football pitch was previously granted planning permission in 2010 (9/2010/0220). A condition could be imposed which would ensure that these two football pitches are not altered other than in strict accordance with the original permission.

As a precaution, to ensure that land levels are properly controlled, a condition could be imposed which restricts the raising or lowering of ground levels in excess of 300mm (other than in the above mentioned areas) without the prior approval of the Local Planning Authority.

Access and Parking

The application site would have two accesses from Cockshut Lane. The north western access is proposed to be one way (IN), while the southwest access would be accessed by both vehicles entering and leaving the site. An internal driveway would link the two accesses. The County Highways Authority firstly raised concerns that there would be no control over the use of an internal one-way system. However this problem could be mitigated by the inclusion of a condition, which would ensure that the northern access would be wide enough to allow two-way traffic. On the advice of the County Highway Authority, visibility at the two accesses would be satisfactory. The County Highways Authority also raised concern that the proposed turning head, adjacent to the sports pavilion appears too short to allow larger vehicles to turn. However with this inclusion of a condition, which requires the applicant to submit as revised layout of the turning facilities, this concern can be addressed. The County Highway Authority states that the proposed parking is considered adequate, and would not cause any detriment to highway safety. Overall, on the advice of the County Highways Authority the proposal would not be detrimental to interests of highway safety.

The proposal therefore complies with PPG13, Transport Policy 6 and Community Facility Policy 1, which seek to ensure that development provides adequate parking and access.

Design and layout

The pavilion would be of a contemporary design and as mentioned previously the proposed materials would be in keeping with the character of the area, and the shallow pitched roof and overhanging eaves would help reduce the perceived mass of the pavilion. The pavilion would be in close proximity to the main sport pitches – football, rugby and cricket, and would be easily accessible by foot from public footpath 18, the proposed car parking and pedestrian paths throughout the site. The design of and position of the proposed pavilion is therefore considered acceptable.

The proposal provides adequate pedestrian access throughout the application site. There would be a tarmac path from the southern end of the car park to the pavilion, tarmac paths to access the tennis courts, the bowling green, the football and rugby pitches, a trim trail around the football and rugby pitches and public footpath 18 provides pedestrian access to the application site from the residential area north west of the site. Public footpath 18 would however be affected by the proposal. The proposed sports pavilion and car parking would be positioned through the footpath. The public footpath nevertheless is capable of being accommodated within the development in a commodious manner, in accordance with Recreation and Tourism Policy 8. The applicant will need to follow a separate procedure to divert the footpath along its proposed new line.

The proposal is therefore in accordance with Community Facilities Policy 1 and Recreation and Tourism Policy 1, which state that adequate pedestrian access be provided and the scale and design of the development is well integrated in their surroundings.

Details of the proposed play area have not been submitted with the application and do not require planning permission in their own right.

Conclusion

The site provides an appropriate location for the implementation of new sporting facilities due to the site's existing use as a sports and recreation ground, and its location just outside the village confine of Melbourne offering good access to users. With the use of conditions to control noise and light pollution generated by the development, it is considered that the impact the proposal would have on the nearby dwellings would not be significantly different to that resulting from the existing use of the site. Satisfactory vehicular and pedestrian access and parking facilities would be provided to meet the increased demands of the recreation ground, and the scale and design of the proposal is considered appropriate for the 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 under Regulation 3 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. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interests of highway safety.

3. Notwithstanding the submitted drawings, before the first use of the facilities on the site, the subject of the application, the northern most access to Cockshut Lane shall be created with a minimum width of 6m, with 6m radii and be laid out, constructed and provided with 2.4m x 120m visibility splays in either direction, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

4. Before the first use of the facilities within the site, the subject of the application, the southern most access to Cockshut Lane shall be modified in accordance with the application drawings, laid out, constructed and provided with 2.4m x 120m visibility splays in either direction, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

5. The facilities, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of visitors/staff/service and delivery vehicles (including secure covered cycle parking), laid out, surfaced and maintained throughout the life of the development, free from any impediment to its designated use.

Reason: In the interests of highway safety.

6. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

7. The development, the subject of the application, shall not be commenced until precise details of the intensity, direction, spread of luminance and shielding of light sources (so as to minimise the risk of drivers on the highway being dazzled) has been submitted to and approved in writing by the Local Planning Authority and thereafter maintained in accordance with the approved scheme.

Reason: In the interests of highway safety.

8. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme submitted shall demonstrate:

- The utilisation of holding sustainable drainage techniques
- The limitation of surface water run-off to equivalent greenfield rates
- The ability to accommodate surface water run off on site up to the critical 1 in100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations
- Responsibility for the future maintenance of drainage features

Reason: To prevent increased risk of flooding.

9. The ground levels of the area shown hatched and marked 'A' on the attached plan shall not be altered other than in strict accordance with Planning Permission Ref 2/2010/0220/SSA.

Reason: In the interests of the character of the area and to protect the amenities of the occupiers of adjoining dwellings.

10. Other than the areas shown hatched and marked 'A' 'B' and 'C' on the attached plan no raising or lowering of existing ground levels in excess of 300mm shall take place without the prior written approval of the Local Planning Authority.

Reason: In the interests of the character of the area and to protect the amenities of the occupiers of adjoining dwellings.

11. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented to the satisfaction of the LPA.

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.

12. Tennis courts shall not be used for any other sporting activity other than tennis without prior written approval from the Local Planning Authority.

Reason: To prevent uses on the tennis courts which could result in excessive noise.

13. Written records shall be kept of the users of the recreation ground. The records shall include which users are using which sporting facility and at what time throughout the day and the facility administrators shall make that information available at all reasonable times to the local planning authority.

Reason: Should noise problems arise, the problematic bookings can be identified.

14. No external sporting facilities shall be used from 9:30pm until 8.00 am the following day, unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

15. Floodlighting to pitches and other recreation areas shall be turned off after 9:30pm and shall not be turned on again until the following afternoon.

Reason: To preserve amenity.

16. Prior to installation a scheme of lighting shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be compliant with ILE Guidance recommendations (Environmental Zone Category E2). Results of post completion testing shall be submitted to and approved in writing by the Local Planning Authority before the lighting is brought into use and shall demonstrate compliance with the scheme; and the approved scheme shall be maintained throughout the duration of the permitted use.

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

17. 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 and to ensure that tree and shrub planting does not constrain the capacity and functionality of the playing fields.

18. 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.

19. Unless as may otherwise be agreed in writing with the Local Planning Authority a landscape management plan, which shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority prior to the first use of the development or any phase of the development, whichever is the sooner. The landscape management plan shall be carried out as approved.

Reason: In the interests of the appearance of the area and to ensure that tree and shrub planting does not constrain the capacity and functionality of the playing fields.

20. 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 sports pavilion 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.

21. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no 6409A 01A, 6490P 03A, and drawing numbers UKS7405/3, 6409P 02A, 6409P 01-2, 6409 P 01, 6409 V01.

Reason: For the avoidance of doubt.

22. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the

Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

23. The facilities, the subject of the application, shall not be taken into use until adequate space has been provided within the site for the manoeuvring of delivery 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.

24. Before development begins, details of where surface water runoff will outfall, if not totally dealt with on site by sustainable drainage principles, shall be submitted to and agreed in writing with the Local Planning Authority. No such run off shall outfall to the balancing pond that exists adjacent to Robinson Hill. The development shall be implemented in accordance with the approved details.

Reason: In the interests of flood protection.

25. Unless as may otherwise be agreed in writing with the Local Planning Authority, before any part or phase of the development is brought into use it shall be constructed and/or implemented in accordance with details and specifications that confirm the facilities are compliant, where relevant, with the technical guidance of Sport England, Rugby Football Union, Football Association, English Cricket Board, Bowls England and Lawn Tennis Association.

Reason: To ensure that the development is a sustainable sport and recreation facility.

26. Unless as may otherwise be agreed in writing with the Local Planning Authority, the development shall be implemented in accordance with a phasing plan which shall have previously been submitted to and approved in writing by the Local Planning Authority and which identifies the timescale and order of the development.

Reason: To ensure that the development is a sustainable sport and recreation facility.

27. Before work is carried out to any playing field or pitch, details and specifications to demonstrate that the quality of any such pitch is compliant with Sport England technical guidance contained in Natural Turf for Sport and the relevant specialist technical guidance of the Rugby Football Union, English Cricket Board and Football Association, shall be submitted to and approved in writing by the Local Planning Authority. The works to pitches and playing fields shall be implemented in accordance with the approved details and specifications.

Reason: To ensure that the development is a sustainable sport and recreation facility.

Informatives:

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

The application site is affected by a public Right of Way (Footpath No. 18 on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Advice regarding the temporary (or permanent) diversion of such routes may be obtained from the Strategic Director, Environmental Services at County Hall, Matlock (tel 01629 580000 and ask for the Footpaths Officer). In reference to condition 8, the drainage scheme proposed should provide a sustainable drainage strategy to include SUDS elements with attenuation, storage and treatment capacities incorporated as detailed in the CIRIA SUDS Manual (C697).

Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SUDS). This approach involves using a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, ponds and wetlands to reduce flood risk by attenuating the rate and quantity of surface water run-off from a site.

This approach can also offer other benefits in terms of promoting groundwater recharge, water quality improvement and amenity enhancements. Approved Document Part H of the Building Regulations 2000 sets out a hierarchy for surface water disposal which encourages a SUDS approach. Further information on SUDS can be found in PPS25, in the CIRIA C522 document Sustainable Urban Drainage Systems-design manual for England and Wales and the Interim Code of Practice for Sustainable Drainage Systems. The Interim Code of Practice provides advice on design, adoption and maintenance issues and a full overview of other technical guidance on SUDS. The Interim Code of Practice is available on both the Environment Agency's web site at: www.environment-agency.gov.uk and CIRIA's web site at www.ciria.org.uk

Further to Conditions 9 & 10 changes of ground levels in excess of 300mm may result in the need for a further grant of planning permission.

In reference to condition 24 details of the balancing pond that exists adjacent to Robinsons Hill are available from SDDC Engineer - Chis Payne (tel: 01283 595756).

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

Item 1.2

Reg. No. 9/2011/0957/NO

Applicant:
Mr David Cash
34 Wye Close
Hilton

Agent:
Mr David Cash
34 Wye Close
Hilton

Proposal: **THE ERECTION OF AN AGRICULTURAL BUILDING AT
LAND AT SK2333 3066 COMMON LANE SUTTON ON
THE HILL**

Ward: **HILTON**

Valid Date: **05/12/2011**

This application was deferred for a site visit at the last meeting – there have been no changes in circumstances since that meeting.

Reason for committee determination

Councillor Bale has requested that the application be brought to Committee, as issues of local concern need to be considered.

Site Description

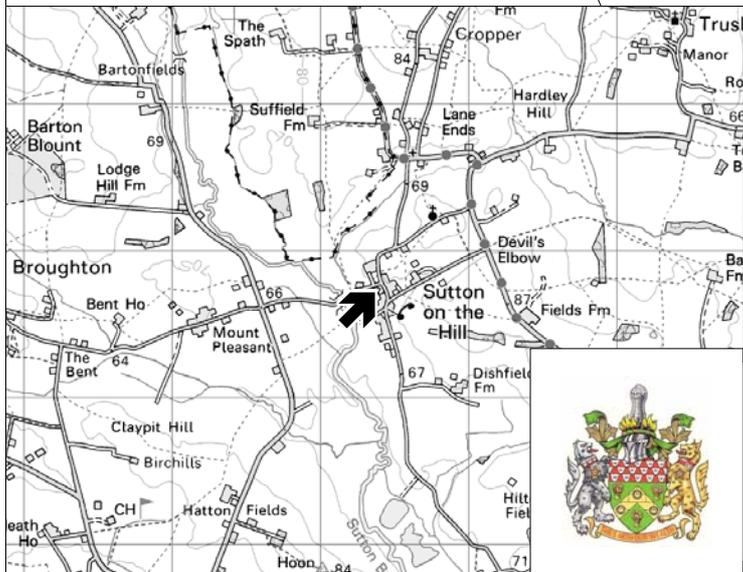
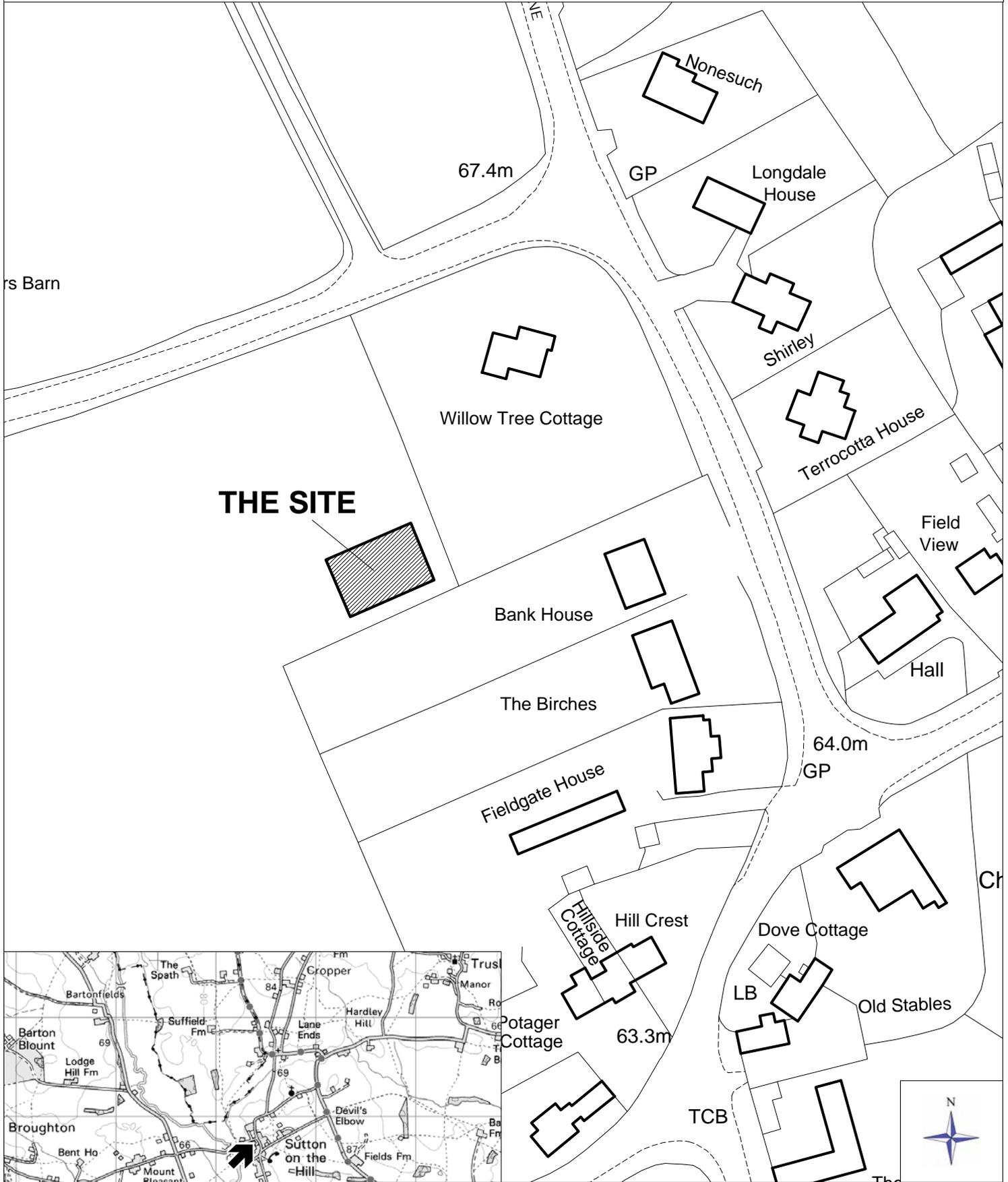
The site as a whole occupies an elevated position above Common Lane from which access is taken. The application building is set back from the road by some 48 metres. It would be sited in the corner of the field as illustrated on the plan displayed at the meeting.

The building abuts the boundaries of Willow Tree Cottage and Bank House both of which have hedges forming their boundaries. Behind the hedge to Willow Bank House is a group of trees in its southwest corner. The hedge to Willow Tree Cottage is of varying heights up to 4 metres but generally at 3 metres with the Bank House hedge having a height of about 1.3 metres. The site of the barn is currently scrubby grass but the majority of the rest of the site (approximately 1.5ha) is under cultivation including the land under the glasshouse.

Proposal

The proposed building would measure 13.82 x 9.14 metres overall. The ridge height would be 4 metres, have an eaves height on one side of 3 metres, south side, and the other 2.44 metres north side. The lower eaves height looks towards the north, Common Lane. The lower part of the roof would be protecting an open sided 'lean to' that has one end, east, clad in green plastic coated steel sheets that also enclose three sides of

9/2011/0957 - Land at SK2333 3066, Common Lane, Sutton on the Hill, Derby DE 6 5JA



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South Derbyshire District Council. LA 100019461. 2010

the remainder of the building. The fourth side of the building would be enclosed with timber boards. The roof would be clad in fibre cement sheet.

Applicants' supporting information

This land was purchased to grow organic produce for the business "Organic Pumpkin" and wholesale sales. A further 3.29 ha (8.1 acres) of land at Kirk Langley is rented.

During the last two years produce from this land and glasshouse has been sold to customers across South Derbyshire with more than one hundred families having deliveries.

This application addresses the matters objected to by the [appeal] Planning Inspector, the agricultural building now being located away from the road, with a low roof ridge height of 4 meters, eaves height of 3 meters to the south and 2.4 meters to the north. The level of the land, it is asserted, puts much of the building out of direct view from the road, with the glasshouse also screening it from "Common Lane".

Landscape planting for the glasshouse to the west of the field would, in coming years, also screen the agricultural building. Until then the west elevation could be seen from some distance on "Common Lane" on the approach to Sutton on the Hill.

The applicant asserts that vertical timber board cladding to the west elevation would give the appearance of an older agricultural building to give an aged appearance when approaching the village.

The agricultural building would be used to store machinery, tools, irrigation equipment, crop protection materials, growing media for plant propagation, cleaning, weighing and bagging of crops, and the crops themselves.

The steel portal framed agricultural building would have an enclosed area of 92 square meters, an open implement storage area of 34 square meters to the south elevation; total area 126 square meters.

Planning History

Planning permission for the glasshouse was granted in 2009 but the application for the agricultural storage building was refused at the same meeting when the building was proposed adjacent to Common Lane. The subsequent appeal was dismissed on the basis that the proposed siting would have an undue impact on the character of the area and the setting of the adjacent listed building. Notwithstanding that, the Inspector acknowledged the need for the business to have a building to store equipment but that the harm caused by the then proposed siting of the store building was sufficient to refuse planning permission.

Responses to Consultations

The County Highway Authority has no objection provided that the building is ancillary to the existing use of the land and the access provided in connection with the glasshouse has been properly implemented.

Environmental Health Enforcement Manager (Contamination) has no comments.

Responses to Publicity

11 responses to the application have been received and are summarised as follows: -

- a) The occupier of Bank House states that if the proposal were reduced in height to 3.5m and timber cladding used on the south elevation then the proposal may be considered acceptable.
- b) The building would be detrimental to the setting of the village, as it would retain the stark functional appearance that the Inspector found unacceptable; all sides of the building should be timber clad.
- c) It would adversely affect the setting of listed buildings.
- d) It would cause traffic problems on Common Lane, particularly at the 'dog leg' next to the Mill that is frequently used by walkers, horse riders and cyclists.
- e) The existing access is inadequate
- f) The building would remain visible from Common Lane and Brook Lane and still have an adverse impact on the landscape. The inspector noted that the landscaping would take time to become established and it remains very small and ineffective. No additional landscaping is proposed.
- g) It would be visible to all buildings on Marlpit Lane and Brook Lane that back onto the site and directly affect the amenity of occupiers of Willow Tree Cottage and Bank House.
- h) The occupier of Willow Bank Cottage asserts that the building would present an unbroken façade 18 metres long to his property and be only 32 metres from the rear façade of Bank House. The proposal is only 28 metres from that property being within 3 m of the boundary and would have a detrimental effect on the bottom part of its garden.
- i) The building is too large for the holding albeit 25% smaller than the one originally proposed. It would be predominantly used as a warehouse to sort and distribute produce bought to the site from elsewhere and would be commercial/industrial rather than agricultural in nature and is totally inappropriate. Very little has been produced from the open land and glasshouse since the site started operating. The warehouse operation should be sited in a suitable unit in Hilton rather than in the attractive village of Sutton on the Hill.
- j) No new employment would be generated as a result of the development. The building would be better sited at the field in Kirk Langley. Other suitable buildings are available in the areas that are a more sustainable option.
- k) No suitable hand washing facilities appear available as produce is retailed from the site; this is essential.
- l) Light and noise pollution would cause disturbance to neighbours. Neighbours experience noise from the site already.
- m) The applicant's ultimate aim is to have a house on the land and residents vigorously oppose this.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policy 5 and Housing Policy 11

National Guidance

PPS 7 – Policies and guidance on agricultural development

PPS 4 – policies and guidance relating to encouraging the rural economy.

Planning Considerations

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

- The Development Plan and more up to date government advice.
- Impact on the character of the area
- Impact on listed buildings
- Impact on neighbours

Planning Assessment

Environment Policy 5 of the adopted Local Plan seeks to ensure that where agricultural development is controlled by planning policies, then it should be so designed and located such that its impact on the character and appearance of the countryside is minimised; appropriate screening is put in place and that the development is served by appropriate access and does not give rise to excessive noise or smell, and is located in close proximity to existing buildings.

The site is occupied by an established rural business in the form of a smallholding. When originally submitted, the proposal included an agricultural storage building on land next to Common Lane. That application was refused and the appeal dismissed for the reasons described above. The Inspector's main concerns in dismissing the appeal was the stark appearance of the store building on raised ground above Common Lane and the impact that would have on the setting of the nearby listed building – The Mill. The current proposal resites the building to a location well within the site further from the listed building and reduces its size. The dominance of the building next to Common Lane would be reduced. The ridge height of 4m is not excessive and from the direction of The Mill would be seen against a background of trees, albeit not in the control of the applicant. The conclusion is that the proposed siting addresses the concerns expressed by the Inspector at the appeal.

Neighbours are concerned that the storage building would be used as a warehouse/distribution centre for goods imported to the site. It is true that there would be a degree of importation of goods from the applicants other land as stated in the Applicants Supporting Information above, but given the limited size of the proposed barn and the other storage requirements, there would be little justification for a refusal on this basis.

There would be some loss of outlook from the existing houses adjacent to the site and the building would be visible from a wider area from other houses. It has never been a principle in planning for a loss of outlook to be a reason for refusing planning permission. The immediate neighbours are separated from the proposed building by distances of 32 and 28 metres respectively as mentioned by the objector. These distances far exceed those set out in the Councils SPD on Housing Design and Layout if that document was used as a guide to assessing the impact of this proposal. As such there is no reasonable justification for refusing the application on the basis of its impact on neighbouring dwellings.

A neighbour has requested that the building be clad in timber particularly on its south elevation and others have suggested that the whole building be so clad. The applicant has been asked to consider these requests and has advised that the cost of timber cladding for the whole building would be excessive. However, he is willing to alter the proposed green colour of the cladding to a brown colour that may be more acceptable in the locality.

In conclusion it is considered that the building is of a scale and character in keeping with an agricultural building on the edge of a rural village and that the business is now well established and providing employment for the owner to the benefit of the rural economy. The materials of construction are in line with modern practice albeit the applicant has sought to 'age' the appearance of the west elevation through the use of timber cladding and is willing to consider other colours for the cladding. Subject to the recommended conditions, the proposal accords with Development Plan policy and government advice.

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. The building hereby permitted shall be used solely in connection with the operation of the 'Organic Pumpkin' or other agricultural enterprise unless the Local Planning Authority has granted planning permission for an alternative user in response to an application made in that regard.

Reason: The permission is granted on the basis of the agricultural requirements of the business. Whilst an alternative agricultural user of the land can benefit from the permission, the Local Planning Authority seeks to control any other user of the building in the interests of the proper planning of the area.

Item 1.3

Reg. No. 9/2011/0963/U

Applicant:
MR & MRS G EVANS
SHARDLOW
DERBYSHIRE
DE72 2GX

Agent:
MRS JANET MONTGOMERY
BRIMBLE LEA AND PARTNERS
HIGH STREET
GILLINGHAM
DORSET
SP8 4AG

Proposal: **THE CHANGE OF USE OF LAND TO TRAVELLING
SHOWPEOPLE'S SITE AND THE SITING OF TWO
MOBILE HOMES ON LAND AT ASTON LANE
SHARDLOW DERBY**

Ward: **ASTON**

Valid Date: **09/12/2011**

Reason for committee determination

The application is brought to Committee because the policy considerations need to be balanced.

Site Description

The application site is approximately half of the former the side garden to No 83 Aston Lane. It was severed from that dwelling some time ago. It is situated on a truncated section of Aston Lane, which was closed to through traffic when the A50 was constructed. This part of Aston Lane contains a few dwellings, a working farm and small businesses.

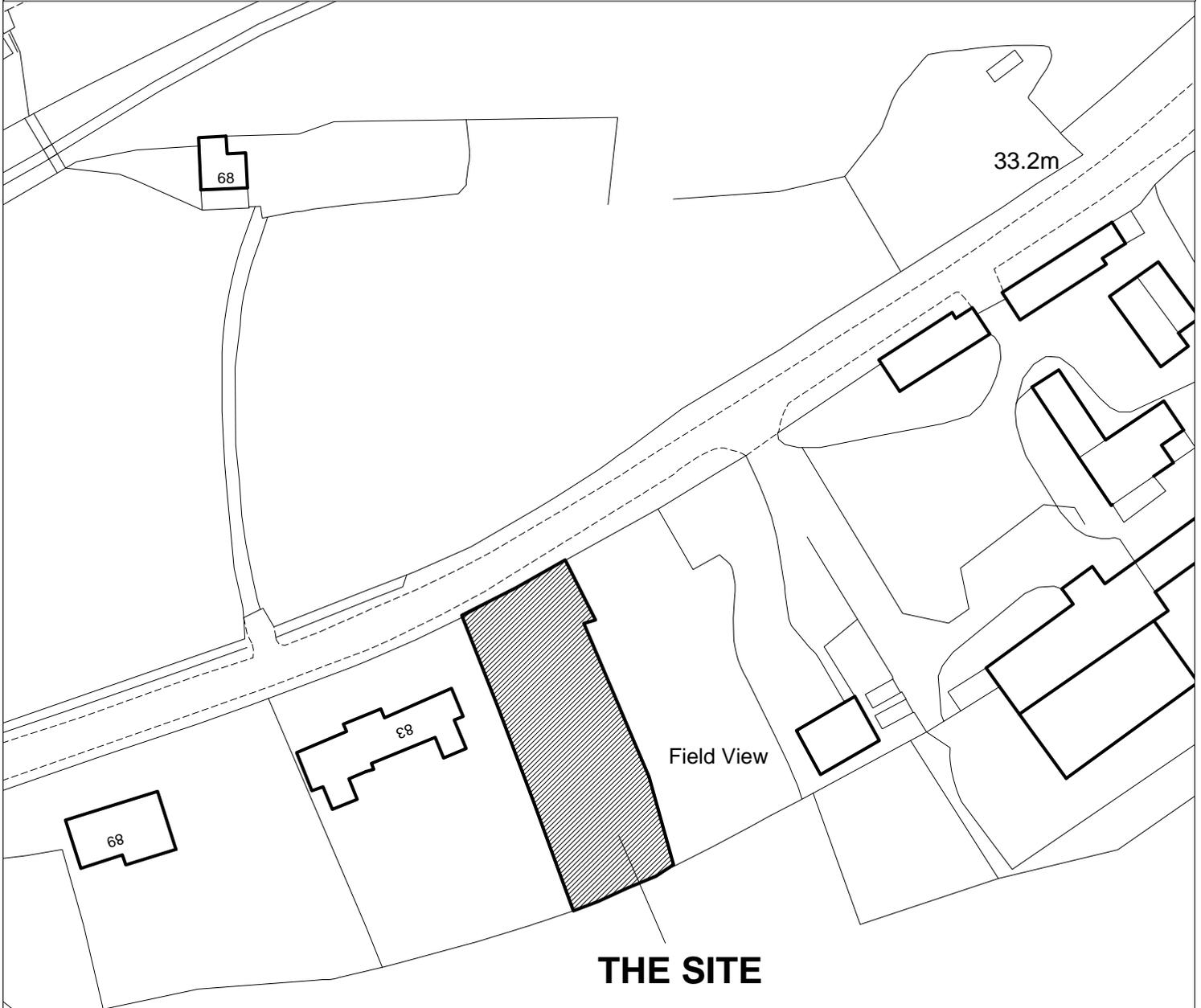
Proposal

The applicants' two sons, who presently occupy mobile homes in the garden to No 89 Aston Lane, would move to the application site in two residential mobile homes. Part of the application site (about 400 sq m of a site area of about 1000 sq m) would be used for the storage and maintenance of their travelling showpeople's equipment.

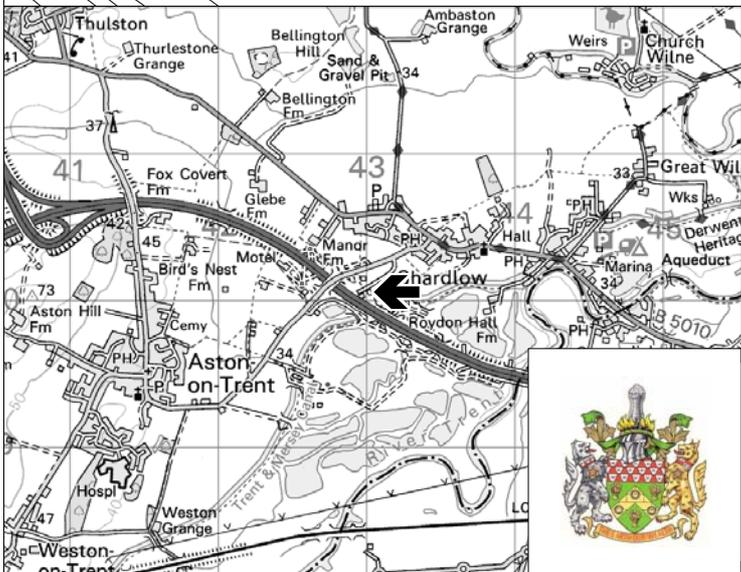
Applicants' supporting information

A consultant's report accompanies the application, the main points of which are:

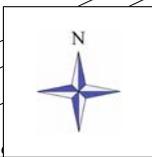
9/2011/0963 - Land at Aston Lane, Shardlow, Derby DE72 2GX



THE SITE



Track



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- The applicants are well known local travelling showpeople who, with their family, have attended the majority of fairs in the Midlands region. The applicants' sons were brought up in Shardlow, being educated in local schools, and they have strong connections with the area. One of the sons is now married and is setting up his own family unit, which is increasing pressure on the applicants' existing home. The proposal is to provide an extension to the applicants' existing site and to provide for the needs of their growing family.
- The application site is the same as that subject to planning permission for two holiday chalets. Two showmen's residential units would be accommodated with space for storage and maintenance of their fairground equipment.
- Whilst the government has prepared a consultation draft of a review of sites for travellers, including showpeople, this is at an early stage and Circular 04/2007 remains the main government guidance for showpeople.
- The Local Plan does not have a specific policy for travelling showpeople, but were Housing Policy 15 (Gypsy Caravan Sites) to be used it is contended that all 6 criteria would be met.
- East Midlands Regional Plan Policy 16 highlights the need for 19 pitches within South Derbyshire and it is contended that this would include sites for travelling showpeople.
- The planning criteria in Circular 04/2007 are clearly applicable to the applicants, who are members of the Showmen's Guild of Great Britain.
- In addition to the need expressed in the Regional Plan the Showmen's Guild have undertaken an assessment that concludes a need for sites in the Notts and Derby section for at least 71 families. Existing sites for showpeople in Derbyshire are full.
- Circular 04/2007 highlights that sites in rural areas are appropriate and this is where they tend to be.
- The applicants have 2 x Twist Rides and 2 x Kiddies Rides and the only work being undertaken on the land would be light repair and maintenance works. The rides as such are tested at the first fairground site that they attend during the summer season, and hence there will be no testing of the rides on the site.
- The tests for site suitability in Annex E of the Circular are met as follows:
 - a. There is a particular reason for locating the site close to the existing family site, in that the family travel together and help each other out. The site is central to the circuit of fairs that they operate, which reduces the need to travel.
 - b. The site is brownfield in that it has permission for holiday chalets and in sequential terms is therefore a highly preferred site.
 - c. The site has good means of access and has for many years been used by the applicant and other businesses located nearby.
 - d. The site is generally level and is able to accommodate the travelling showpeople's site.
 - e. The site is accessible to village facilities. Paragraph 54 of Circular 04/2007 highlights that joint living/working practices for travelling showpeople's lifestyle allows some flexibility in respect of sustainability issues.
 - f. There is existing landscaping around the site, which could be supplemented if required.
 - g. The site is laid out to respect and reinforce the traditional land uses in the locality and to protect the amenities of nearby residents. The residential

element of the proposal is set alongside other residential properties with storage and maintenance to the rear.

- h. The land is not in the Green Belt or specially protected area.

Planning History

9/2009/0779 – Outline application for two holiday chalets. Permitted 11/11/09.

9/2009/0101 - The change of use from garden to development for six static caravans.

Refused 1/4/09

9/2005/0967 – Outline application (all matters reserved) for the erection of two dwelling.

Refused 27/9/05

9/2005/0519 - Outline application (all matters reserved) for the erection of four dwellings. Refused 7/7/05

Responses to Consultations

The Parish Council has no objection but asks that vehicles and equipment be kept within the curtilage of the property.

The Environment Agency, Development Control Archaeologist and the Highway Authority have no objection in principle.

The Environmental Health Manager has no objection subject to conditions to protect the amenities of neighbours.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan Policy 16

South Derbyshire Local Plan Saved Environment Policies 1 & 14, Housing Policy 12, Transport Policy 6. The Gypsy and Traveller Accommodation Assessment 2008 (GTAA) provides evidence on need.

National Guidance

Circular 04/2007, PPS4, PPS7,
Consultation on Planning for Traveller Sites.

Planning Considerations

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

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

- Residential amenity.
- Highway safety.

Planning Assessment

The Principle

To meet the tests of Environment Policy 1 of the Local Plan, development away from settlements has to be either essential to a rural based activity or unavoidable in the countryside. Housing Policy 12 requires there to be evidence supporting the requirement for non-permanent dwellings to sustain an acknowledged rural based activity outside a settlement. There is no inherent functional requirement for showpeople's sites to locate outside settlement boundaries. Nevertheless it is evident that the applicants' sons have resided at No 89 Aston Lane for a considerable period of time and have grown up in Shardlow, where they were also educated. It is also evident that they are employed in the travelling show business and the equipment travels with them whilst touring. Circular 04/2007 'Planning for Travelling Showpeople', acknowledges that sites in rural or semi-rural settings may be appropriate, whilst still advocating strict control in the open countryside away from settlements, which is echoed by PPS4 in respect of economic development. Whilst the site lies outside the village confine it is situated within an enclave of built development comprising a working farm, businesses, and private dwellings. Furthermore the visual impact of the development would not differ substantially from the permitted holiday chalets (9/2009/0779).

Although Policy 16 of the Regional Plan does not identify a specific need for travelling showpeople's plots in South Derbyshire, the GTAA identifies a shortage of showpeople's sites and a need for at least one new site in the Derbyshire area. The site would do little to meet this strategic need but it would enable this particular family to maintain their close personal and business linkages. The Circular makes it clear in Paragraph 9 a) that travelling showpeople do not in general share the same culture or traditions as Gypsies and Travellers and typically reside in quarters that also serve as the base for their equipment. The submitted plans show a relatively small area (some 400 sq m) for the storage and maintenance of equipment.

In terms of sustainability the criteria in the Circular would be met by the application, specifically:

- The proposal would enable the family to continue to live and travel together, thereby omitting many travel to work journeys;
- The local community is already accustomed to the family living in the area;
- Existing links with the community e.g. medical and education services would be maintained;
- A settled base would reduce the need for long-distance travelling;
- The site avoids encroachment into the flood risk area associated with the River Trent.

Nothing in the Consultation on Planning for Traveller Sites contradicts the above assessment in the light of the evidence in the GTAA and the scale, nature and particular circumstances of this particular application.

Impact on the character and appearance of the countryside and general character of the locality

The Circular states that sites should respect the scale of and not dominate the nearest settled community. Whilst the site lies outside the village confine it is within an established group of buildings and mixed uses. Furthermore the site already has permission to build two holiday chalets, which would have similar impact to the two mobile homes proposed. The amount of land proposed for the storage and maintenance of equipment is not excessive and would not be unduly obtrusive in its context. A condition requiring landscaping would further reduce visual impact. Therefore the scale of the proposal would not be at odds with the context of the site and the general character of the area.

Residential amenity

The proposed mobile homes would not result in loss of privacy or overlooking to neighbours. However whilst such activity would likely be limited, the maintenance of equipment has the potential to cause disturbance. The recommended conditions of the Environmental Health Manager would prevent this from becoming unacceptable.

Highway safety

The access and highway arrangements are adequate to deal with traffic associated with the proposed use of land and highway safety would thus not be compromised. Given that the applicants already reside at No 89 Aston Lane there would be no material increase in traffic.

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. The storage and maintenance of showpeople's equipment shall be confined to the area annotated on the submitted Drawing No 11123-1 and the area shall be provided before any equipment is brought onto the site.
Reason: In the interests of the appearance of the area and highway safety.
3. Before the storage and maintenance area is brought into use, a noise management plan shall be submitted to and approved in writing by the Local Planning Authority. This shall stipulate the noise sources which will be used on the area, their noise specifications (such as their maximum sound power level) and the proposed times of use. Thereafter the storage and maintenance area

shall be used only in strict accordance with approved noise management plan, unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: To ensure that the use does not cause undue disturbance to neighbours.

4. No external lighting to the storage and maintenance area shall be installed other than in accordance with details and specifications that shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: To minimise light pollution in the interest of visual and residential amenity.

5. Prior to the commencement of the use hereby permitted the access, parking, manoeuvring and storage area shall be laid out in accordance with the approved Drawing No 11123-1 and maintained thereafter free of any impediment to its 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.

Informatives:

Any discharge of treated sewage effluent will require an Environmental Permit (EP) from the Environment Agency, unless an exemption applies. The applicant is advised to review the guidance for 'small discharges of sewage effluent' to determine whether an exemption applies at:

<http://www.environment-agency.gov.uk/business/topics/water/117485.aspx>

If an EP is required the applicant may find it easier and faster to register on-line at <http://www.environment-agency.gov.uk/business/topics/107355.aspx>

The Environment Agency's National Permitting team can be contacted on 08708 506506 or psc@environment-agency.gov.uk to discuss the issues likely to be raised.

The applicant should thoroughly investigate the possibility of connecting to the foul sewer (running south of the site) by taking the following steps:

- Formally approach the sewerage undertaker regarding a connection under Section 106 or a requisition under Section 98 of the Water industry Act (WIA) 1991.
- Demonstrate that it is not reasonable to connect to the public foul sewer.
- If following the above steps a public sewer connection is not feasible, a foul drainage assessment must be completed in full.

In the absence of a public sewer, the most sustainable method of disposal of foul drainage is a package treatment plant which has a secondary treatment chamber and discharges a higher quality of effluent.

If external artificial lighting is to be provided as part of the application then it should be designed to ensure that it meets the maximum light intrusion and sky glow standards for Environmental Zone E2 contained in Table 2 of the Institute of Lighting Professionals "Guidance Notes for the Reduction of Obtrusive Light" (2011), GN01:2011.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Item 1.4

Reg. No. 9/2011/0997/FH

Applicant:
MISS AMY PEARCE
66 HILLSIDE ROAD
LINTON
SWADLINCOTE

Agent:
MISS AMY PEARCE
66 HILLSIDE ROAD
LINTON
SWADLINCOTE

Proposal: **THE ERECTION OF EXTENSIONS AT 17 HEREFORD
CRESCENT MIDWAY SWADLINCOTE**

Ward: **MIDWAY**

Valid Date: **03/01/2012**

Reason for committee determination

The applicant is the daughter of a member of staff.

Site Description

The property is a two storey detached dwelling with an attached garage. It affords front and rear garden space and some off road car parking provision. Housing styles in the street are mixed, with a number of them featuring extensions. The property is presently empty and has fallen into a state of disrepair.

Proposal

The proposal is in three main parts and includes: a two-storey extension to the rear, an extension to and over the garage and a replacement porch.

Applicants' supporting information

None.

Planning History

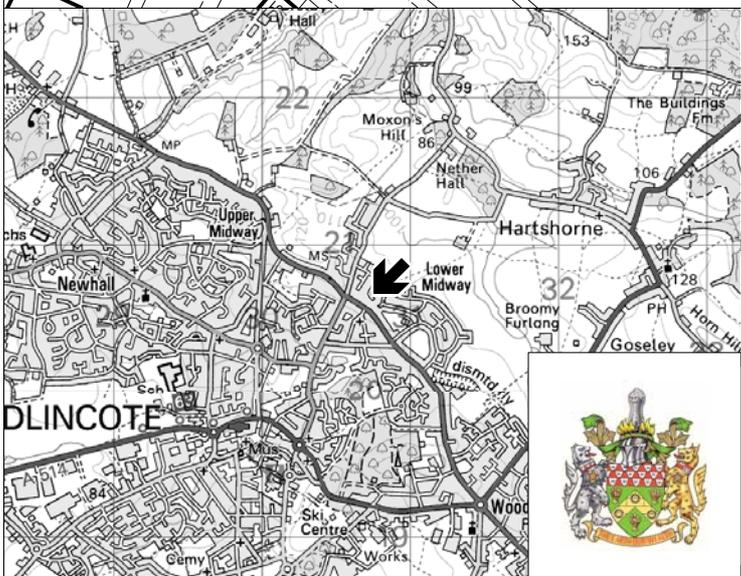
None.

Responses to Consultations

No objections have been received.

Development Plan Policies

9/2011/0997 - 17 Hereford Crescent, Midway, Swadlincote DE11 7PT



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The relevant policies are: Local Plan Housing Policy 13, Supplementary Planning Guidance (SPG): Extending your Home.

Planning Considerations

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

- Design /Impact on the streetscene
- Residential amenity

Planning Assessment

The proposed works, as mentioned above are in three main parts.

The rear extension is two storey. It is 3.4m in depth, which is only 0.4m over what could be achieved with permitted development. However there is no detriment to this slightly larger extension, seen to continue the existing form. There are views from the adjacent footpath – the 1.8m fence here provides a useful screen though.

The extension over the garage protrudes forward of the main house / principal elevation and is similar to extensions that have been allowed in the locality. This particular design is considerate of the host in terms of its positioning (to the side), its height (lower than main ridge), its narrower gable and its simply fenestrated finish. By virtue of these points it appears subordinate. The porch would be modest and in part would replace an existing flat roofed porch. There is no breach of supplementary planning guidance (SPG) requirements in respect of overlooking and overbearance. Residential amenity remains unaffected and of a level expected in this particular locality.

The whole of the works are seen to be in keeping with the existing situation.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of the dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, each space measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site.

Reason: To ensure that adequate curtilage based parking provision is available.

Informatives:

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

Item 1.5

Reg. No. 9/2012/0015/NA

Applicant:

MR K ATKIN
ATKIN BROTHERS
THE GRANGE
TWYFORD ROAD
BARROW ON TRENT
DERBY

Agent:

MR SAM GALLIMORE
M.J BARRETT'S
BROOKSIDE BUSINESS PARK
BROOKSIDE ROAD
UTTOXETER

Proposal: **THE ERECTION OF AN END EXTENSION AND LEAN TO
AT THE GRANGE TWYFORD ROAD BARROW ON
TRENT DERBY**

Ward: **ASTON**

Valid Date: **06/01/2012**

Reason for committee determination

The applicant is related to a district councillor.

Site Description

The site is a working farm on the outskirts of Barrow on Trent, comprising a substantial range of modern farm buildings clustered around the Grade II listed farmhouse.

Proposal

The proposal is an application for prior notification of agricultural permitted development involving the extension of an existing steel framed farm building, clad in materials to match.

Applicants' supporting information

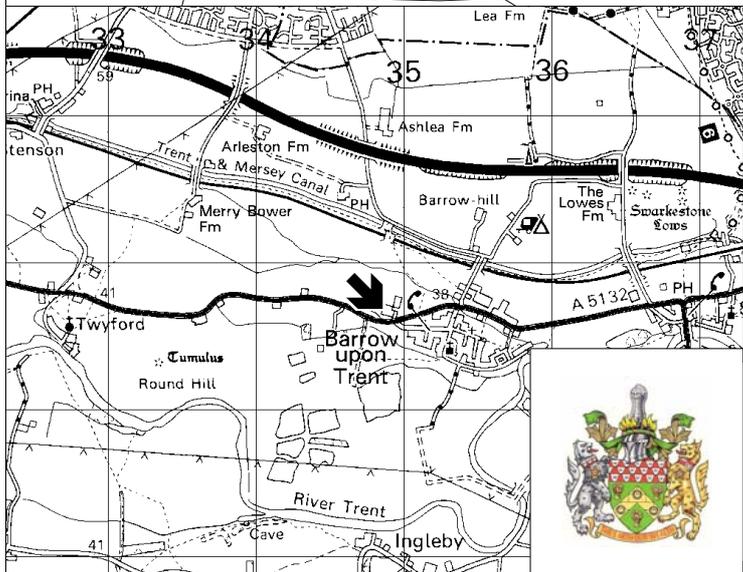
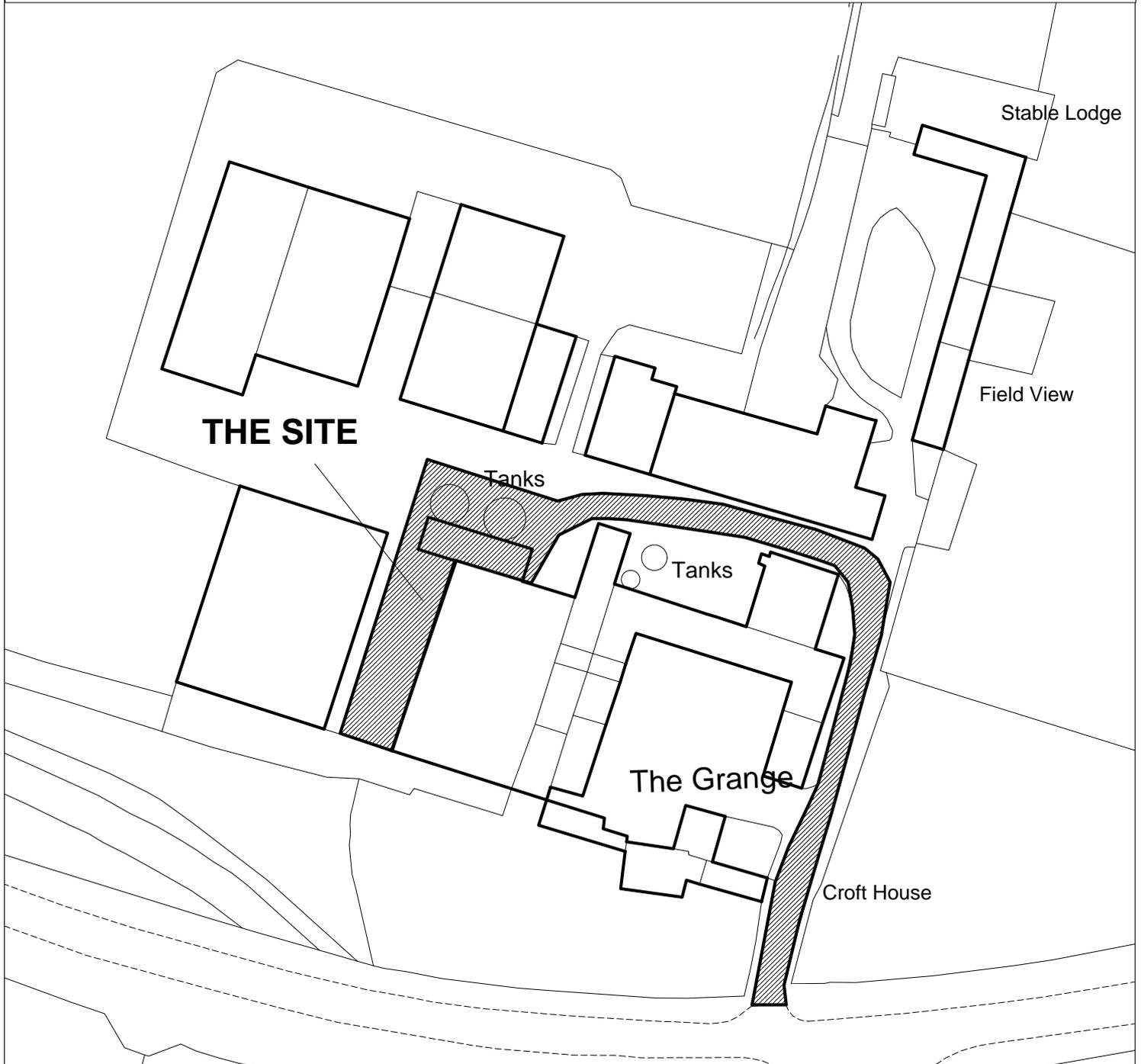
None.

Planning History

The farm has developed incrementally over many years.

Responses to Consultations

None.



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Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

Local Plan: South Derbyshire Local Plan Environment Policy 5.

National Guidance

PPS7

Planning Considerations

The main issue central to the determination of this application is the siting and design of the proposal.

Planning Assessment

Environment Policy 5 seeks to ensure that new agricultural development:

- is of an appropriate scale and sited close to existing buildings wherever possible;
- would not detract from views across the countryside, or have an adverse impact on the landscape or natural history or heritage interests; and
- the visual effect of the proposal is minimised by appropriate attention to design, materials, screening and landscaping.

In this case the extension would be subordinate to the host building, in matching materials, and well screened within the existing complex. As such the proposal would have neutral impact on the interests identified by the policy.

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

To **NOT OBJECT**.

2. PLANNING AND OTHER APPEALS

(References beginning with a 9 are planning appeal and references beginning with an E are an enforcement appeal)

Reference	Place	Ward	Result	Cttee/Delegated
E/2011/00002	Barrow	Aston	Dismissed	Delegated
E/2009/00154	Boundary	Woodville	Mixed	Delegated
9/2011/0301	Barrow	Aston	Dismissed	Delegated
9/2011/0052	Hilton	Hilton	Dismissed	Delegated



Appeal Decision

Site visit made on 6 December 2011

by **P N Jarratt BA (Hons) DipTP MRTPI**

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

Decision date: 20 December 2011

Appeal Ref: APP/F1040/C/11/2159044

The Hill Lodge, Deep Dale Lane, Barrow-on-Trent, Derby, DE73 7NH

- 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 Adrian Dawson against an enforcement notice issued by South Derbyshire District Council.
 - The Council's reference is E/2011/00020.
 - The notice was issued on 28 July 2011.
 - The breach of planning control as alleged in the notice is the partial erection of a garden store/garage.
 - The requirements of the notice are
 - (i) Demolish the partially erected garden store/garage, including the removal of any and all footings.
 - (ii) Permanently remove the resultant materials from the Land.
 - The period for compliance with the requirements is 36 days.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
 - **Summary of Decision: appeal dismissed and enforcement notice upheld.**
-

Preliminary matter

1. Applications for costs were made by the appellant against the Council and by the Council against the appellant. These applications are the subject of separate Decisions.

The appeal on ground (a) and the deemed planning application

Main issue

2. From my inspection of the site and its surroundings and from the written representations made, I consider that the main issue in this appeal is the effect of the proposed development on the character and appearance of the countryside.

Reasons

3. The Hill Lodge is situated in open countryside close to road bridges over a canal and a railway line. The appeal site comprises the main dwelling and garden together with a former paddock. Within the site are a number of other buildings and structures including two used as ancillary accommodation. There is a large timber garden structure surrounding a pond and a substantial brick building is currently being built close to the Deep Dale Lane boundary.

4. There have been many planning applications submitted over recent years including a 2008 permission for 'the change of use of paddock into residential curtilage'¹ which is subject to a condition withdrawing permitted development rights for buildings and means of enclosure in order to protect the countryside.
5. The unauthorised structure which is the subject of the notice is a partially erected garden/store garage consisting of a blue painted portal steel framework on eight uprights set into concrete footings. A considerable amount of scaffolding was being stored under the structure at the time of my site inspection. The structure has not yet been clad but if completed, it would be a substantial building occupying a significant part of the former paddock.
6. Saved Environment Policy 1 of the South Derbyshire Local Plan is the relevant policy against which the appeal should be determined. It sets out the criteria for development in the countryside, one of which is that the development should be unavoidable. Although the appellant justifies the development on the basis that it is for storage of domestic items, motor vehicles and motor bikes, including vehicles used in connection with the appellant's scaffolding business, there is already existing garaging on site and the construction of the new outbuilding could provide further storage facilities. However I acknowledge that it is a matter for the appellant to determine how such buildings are used so long as it is for a purpose ancillary to the enjoyment of the dwellinghouse.
7. The policy also requires development to be designed and located to minimise its impact. The unauthorised development is located on rising ground towards the rear of the site. Although the site has high conifer hedges to the rear and side the structure is visible from certain parts of Moor Lane and is prominent from the road bridges over the railway and canal. The roof would still remain visible after completion of the brick building being constructed at the front of the site. The scale and siting of the structure adds further to an urbanising effect created by the various buildings on the site and this is detrimental to the openness of the countryside and the character of the area. Its harmful impact would not be mitigated by a condition controlling cladding materials, or by the screening effect of the roadside hedgerow when in leaf. Accordingly, the development does not accord with Environment Policy 1 of the Local Plan, or with PPS7² which states that the effective protection and enhancement of the environment is part of one of its key principles.
8. The appellant considers that Local Plan Housing Policy 13 relating to residential extensions is relevant and refers to local cases where development has been permitted by the Council in the light of that policy. However, the details of those cases are not before me. I have considered this appeal on its merits and I consider that as the unauthorised development is neither an extension to a dwelling or an ancillary building, I consider that Environment Policy 1 is the main policy against which the development should be judged and not Local Plan Housing Policy 13. Even had Local Plan Housing Policy 13 been of greater relevance, the proposal would not have satisfied that part of the policy relating to the character of the area.

¹ Although permission has been granted for the change of use to residential curtilage, the term 'curtilage' is not a use but a concept in planning law. Land cannot be used as residential curtilage but evidence of use of the land goes towards meeting part of the curtilage test. It appears from the permission that the change of use was to garden land.

² Planning Policy Statement 7: Sustainable Development in Rural Areas²

9. The appellant's argument that the structure only slightly exceeds the tolerances of permitted development rights carries limited weight as such rights have been withdrawn through the 2008 permission due to the Council's concerns over the potential impact that further development in the former paddock could have on the open countryside.
10. For the reasons given above and having had regard to all relevant planning considerations including reference to nearby industrial units and the comments of the Parish Council, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal decision

11. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

P N Jarratt

INSPECTOR



Costs Decisions

Site visit made on 6 December 2011

by **P N Jarratt BA (Hons) DipTP MRTPI**

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

Decision date: 20 December 2011

Costs application (A) in relation to Appeal Ref: APP/F1040/C/11/2159044 The Hill Lodge, Deep Dale Lane, Barrow-on-Trent, Derby, DE73 7NH

- 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 Adrian Dawson for a full award of costs against South Derbyshire District Council.
 - The appeal was against an enforcement notice alleging the partial erection of a garden store/garage.
 - **Summary of Decision: The application for costs is refused and no award is made.**
-

Costs application (B) in relation to Appeal Ref: APP/F1040/C/11/2159044 The Hill Lodge, Deep Dale Lane, Barrow-on-Trent, Derby, DE73 7NH

- 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 South Derbyshire District Council for a full award of costs against Mr Adrian Dawson.
 - The appeal was against an enforcement notice alleging the partial erection of a garden store/garage.
 - **Summary of Decision: The application for costs is refused and no award is made.**
-

1. 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 or wasted expense in the appeal process.

Costs Application A

2. The basis of the appellant's claim is that the Council has misdirected itself through the application of the wrong policy as it should have used the policy relating to the extension of dwellings. Furthermore the appellant considers that Council has not demonstrated that the development would be harmful to the character and appearance of the countryside.
3. There have been many applications for development at the appeal site and the Council has sought to limit any potential harm to the countryside through the application of Environment Policy 1 when determining the applications. When granting permission in 2008 for 'the change of use of paddock into residential curtilage' it was subject to a condition withdrawing permitted development rights for buildings and means of enclosure in order to protect the countryside. The Council has been consistent in its approach to the development of the site

and the appellant's contention that Environment Policy 1 is not relevant is without foundation. Furthermore, this policy relates to the issue of need and to impacts on the countryside which the Council has addressed perfectly adequately in their reasons for issuing the notice and appeal statement.

4. It appears that the appellant has assumed that because of the 2008 permission, Local Plan Housing Policy 13 applies and he refers to local cases where development has been permitted in the light of that policy. However, I have found that this policy is not the determining policy in the appeal. Even had that policy been relevant the proposal would not have satisfied that part of the policy relating to the character of the area.
5. The appellant contends that the Council has acted unreasonably in the light of Para 18 of PPG18¹ and the expediency of taking enforcement action. However, reliance on these matters is mistaken as there are no permitted development rights associated with the development and comparisons with what would have been permitted under the Town and Country (General Permitted Development) Order serve no meaningful purpose.
6. The Council has not been wrong in its approach, nor is it wrong for the Council to have concluded that the development could not be made acceptable through condition.
7. The appellant makes only general reference is to paragraphs B7 to B12 and B15 to B29 of the Circular but I can find nothing in those paragraphs that support the appellant's application for costs. The appellant's reference to other costs decisions relating to Councils elsewhere applying incorrect policies to applications is not persuasive in the light of my conclusion that the Council has applied the correct policy. In any event I have dealt with the matter before me on its individual merits.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Costs Application B

9. The Council refers to Paragraph B13 of the Circular as they consider an appeal never had a reasonable prospect of succeeding. The appellant has relied on a policy that is not applicable in the hope this gives greater support to the deemed application. His case also relies on non-existent permitted development rights being weighed in the balance.
10. Although the appellant has pursued arguments in his appeal upon which I attach limited weight, the main planning issue relates to the impact that the completed development would have on the character and appearance of the countryside. This involves a judgement to be made on the potential impact based on the facts of the case. I therefore consider that the appellant could have had a reasonable prospect of the case succeeding based on a consideration of visual impact. The fact that the appellant has chosen to introduce matters of limited relevance has clouded the issue but this does not justify unreasonable behaviour in the terms set out in paragraph B13.
11. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

¹ Planning Policy Guidance Note 18: Enforcing Planning Control

Formal Decisions

Application A

12. I refuse the application for an award of costs

Application B

13. I refuse the application for an award of costs

P N Jarratt

Inspector



Appeal Decision

Site visit made on 28 June 2011

by **B S Barnett BA MCD MRTPI**

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

Decision date: 6 July 2011

Appeal Ref: APP/F1040/C/10/2135176

Land and building to the north east of 421 Ashby Road, Boundary, Swadlincote, DE11 7BA

- 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 Shaun William Russell against an enforcement notice issued by South Derbyshire District Council.
 - The Council's reference is E/2009/00154.
 - The notice was issued on 23 July 2010.
 - The breach of planning control as alleged in the notice is *change of use of the land from garages serving the land known as 421 Ashby Road to use as a separate dwelling without planning permission.*
 - The requirements of the notice are:
 1. *Permanently cease the use of the land as a dwelling.*
 2. *Permanently remove from the land any and all worktops, appliances, sinks, cupboards, cabinets, wardrobes, beds, baths, showers, toilets, and all other fixtures, fittings, furniture and soft furnishings, and any other item associated with the domestic use of the building.*
 3. *Permanently remove the brick wall between The Gables, 421 Ashby Road and the land.*
 4. *Permanently remove the post box outside the land marked Blue Leaves.*
 - The period for compliance with the requirements is 182 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
-

Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld as corrected and varied in the terms set out below in the Decision.

Preliminary Matter

1. The notice refers to a period for compliance, but also indicates that this will expire on 20 February 2011. As an appeal has been made, this latter statement is now inaccurate and potentially misleading. I will delete it.

Ground (f)

2. The appellant does not dispute the requirements to cease use as a dwelling and to remove the post box, but argues that the other steps required are excessive.
3. In 1997 planning permission was given retrospectively for the erection of this building. It is clear from the appellant's statement that what was permitted

was a building to be used as a garage and store incidental to use of the neighbouring house, The Gables.

4. The building has been used as a dwelling and the requirements of the notice are clearly intended to remove all trace of this unauthorised use. The purpose of the notice is not just to end the use but to restore the land and building to their condition before the breach of planning control took place. The decision in *Somak Travel v SSE [1987] JPL 630* made it clear that an enforcement notice relating to a material change of use can require more than just cessation of the unauthorised use. It can require restoration of the land by undoing works done to facilitate the change of use, even though they might not have involved development, provided that those works were integral to, or part and parcel of, the change of use.
5. The wall referred to in the allegation is about a metre high. It divides the appellant's land into two separate plots, each with its own access from the lane, and prevents direct access from the area surrounding 'The Gables' to the area where the building referred to in the notice has been erected. Because of the slope, it would not be unusual to see a retaining wall somewhere on the land. However, if such a wall was intended to facilitate use for purposes incidental to the enjoyment of The Gables, one would expect to see access around or through it so that the whole site was accessible internally without having to use the lane to get from one part to the other. Such an arrangement existed previously. The remains of a flight of steps are still visible.
6. Even though there is a break in the brick bonding where the steps were, the wall appears to have been built as a single unit with the intention of splitting the appellant's land into two separate residential planning units. On the evidence and on the balance of probabilities, its erection facilitated and was integral to, and part and parcel of, the change of use alleged in the enforcement notice.
7. Part of the wall has been incorporated into an outbuilding attached to and forming part of 'The Gables'. This has changed the character of this section of wall as it now forms part of a building rather than being solely a means of dividing the land. Removing it would have the effect of demolishing the outbuilding and go beyond what can reasonably be required to remedy the unauthorised change of use. With this exception, however, I find that the requirement to remove the wall is not excessive but is necessary to restore the land to its condition before the breach of planning control took place. The appellant's suggestion of removing only the section of wall blocking access to the former steps would not achieve the purpose of the notice. In this respect, the appeal under ground (f) fails.
8. I saw inside the building, among other things, some kitchen units with worktops and a sink, a fridge, a fully fitted bathroom with bath, basin and toilet, and a double bed. There may well be other domestic appliances¹, sinks, beds or showers which I was unable to see because of the very cluttered conditions within the property. These are not items one would normally find in a building used as a garage and domestic store in association with a house some distance away. Although the appellant claims that they could have been put there in connection with use of The Gables, there is nothing to suggest that

¹ I prefer the term 'domestic appliances' to make it clear that the notice is not intended to refer to appliances of a medical or other nature.

this actually occurred. They provide facilities essential to use of the building as a dwelling and they appear to have been put there to facilitate the change of us. On the balance of probabilities, their provision was integral to, and part and parcel of, the change of use alleged in the enforcement notice. The requirement to remove them is not excessive but is necessary to restore the land to its condition before the breach of planning control took place. In this respect, the appeal under ground (f) fails.

9. In respect of the other items referred to in the second requirement, however, the position is less clear.
10. There are numerous items of furniture including cupboards, cabinets, chests of drawers, book shelves and chairs within the building. These may have been of use to the appellant when he lived in the building, but they are not fundamental to residential use. Some of them at least were probably brought onto the land after the building was first used as a separate dwelling. Some may have been in use there before the change of use occurred. It is unlikely that in all cases their provision was part and parcel of the change of use.
11. The requirements to remove 'other fixtures and fittings' and 'soft furnishings and any other item associated with the domestic use of the building' is imprecise and potentially extremely far reaching. The Council's representative at the site visit suggested that fittings would include a lighting unit fastened to the garage wall, but this did not seem to me to facilitate use as a dwelling. Both within the building and on the land around it I saw many items including piles of cloth (which may have been soft furnishings or clothes), an old car and a tractor, tools, books, CD's, fuel cans and a pool table. It is arguable that all these items are associated with domestic use as they appear to be the appellant's personal possessions. However, it seems probable that many of them were brought onto the land after the building was first used as a separate dwelling and some were probably there before the change of use occurred.
12. To require all these items to be removed goes beyond what can reasonably be required, as the provision of at least some of them is likely not to have been integral to, or part and parcel of, the change of use alleged in the enforcement notice. I do not see how the notice can be varied to differentiate between furniture, fixtures and fittings and other items which are part and parcel of the change of use and those which are not. I conclude that this part of the requirements is excessive and to this extent the appeal under ground (f) succeeds.
13. I appreciate that this conclusion may appear to conflict with that in an earlier appeal decision referred to by the Council (APP/R1010/C/09/2101913). The circumstances in that appeal were, however, different. In particular it concerned the erection of a building not a material change of use.

Ground (g)

14. The appellant asserts that 182 days is insufficient time to remove the wall.
15. The wall retains the higher land around the building addressed by the notice and if it is removed other means of support would need to be provided or the land would have to be battered to produce a self supporting slope. The difference in level is about a metre and the amount of land available is such that this should not be a particularly difficult or complex task. I do not accept the appellant's assertion that there would be a need for lengthy site

investigations or that it is likely to require underpinning of any building. 182 days is ample time to undertake the work involved if the matter is addressed promptly. The appeal on ground (g) fails.

16. It is open to the Council to extend the time for compliance at a later date if they are satisfied that circumstances warrant such action.

Decision

17. The appeal is allowed on ground (f) only.

18. The enforcement notice is corrected by deleting from section 6 the phrase '(midnight on 20 February 2011)'.

19. The enforcement notice is varied by:

1. deleting the second requirement and substituting for it the following requirement: *Permanently remove from the land any and all kitchen units, worktops, domestic appliances, sinks, beds, baths, basins, showers and toilets, and*
2. adding to the end of the third requirement the following words: *except where that wall now forms part of the outbuilding attached to The Gables.*

20. Subject to this correction and these variations, the enforcement notice is upheld.

B Barnett

INSPECTOR



Costs and Decision Team
3/25 Hawk Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line: 0117 372 8789
Customer Services: 0117 372 6372
Fax No: 0117 372 6298

Andrew Thomas
Thomas-Taylor Planning Ltd
Castle House
South Street
Ashby de la Zouch
Leicestershire LE65 1BR

Your Ref:

Our Ref: APP/F1040/C/10/2135175

Date: 16 November 2011

Dear Sir

**LOCAL GOVERNMENT ACT 1972 – SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 174 & 322
LAND AT THE GABLES, 421 ASHBY ROAD, BOUNDARY, SWADLINCOTE,
DERBYSHIRE
APPEAL BY MR S W RUSSELL: APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for Communities and Local Government to refer to the Planning Inspectorate's letter of 8 October 2010. This confirmed withdrawal of an enforcement notice issued by South Derbyshire District Council on 23 July 2010¹. The notice alleged a breach of planning control, on land described above by "*the erection of a fence along the northern boundary of the property, adjacent to a highway, in excess of 1 metre in height, without planning permission.*"

2. With apology for any delay² this letter deals with your application, on behalf of the appellant, for an award of costs against the Council. The application was made in your letters of 1 & 19 November 2010. The Council replied in a letter dated 10 November 2010. As these costs representations have been disclosed to the parties, it is not proposed to summarise them in detail. They have been carefully considered.

Summary of decision

3. The formal decision and costs order are set out in paragraphs 14 & 15 below. The application succeeds and a full award of costs is being made.

Basis for dealing with the costs application

4. In enforcement appeals, the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are only awarded on the grounds of "unreasonable" behaviour, resulting in unnecessary or wasted expense.

¹ A related enforcement notice also dated 23 July 2010 alleged the unauthorised material change of use of the land from garages to use as a dwelling. That enforcement notice was the subject of a related appeal (ref: APP/F1040/C/10/2135176).

² The costs application was not in a position to be decided until after the related appeal had been determined.

5. Section 322 of the Town and Country Planning Act 1990 enables the Secretary of State to award appeal costs against any party in proceedings which do not give rise to a local inquiry, where it is found that one of the parties to the appeal has behaved unreasonably and the expense incurred by any of the other parties is wasted as a result. Published policy guidance is in CLG Circular 03/09 (referred to below as the 'Costs Circular'). The application for costs has been considered in the light of this guidance, the appeal papers, the parties' correspondence on costs and all the relevant circumstances.

Reasons for the decision

6. The decisive issue is whether the combination of the Council's issue and subsequent withdrawal of the enforcement notice was "unreasonable" in the particular circumstances, with the result that your client incurred wasted expense in appealing against it. The policy guidance at A12, B4, B8, B32 to B42 & F3 of the Costs Circular is particularly relevant. The view is taken that the withdrawal of an enforcement notice may, in some circumstances, amount to an admission that it was not expedient to have issued it in the first place. The relevant circumstances, leading to the withdrawal of the enforcement notice, have therefore been carefully examined³.

7. Following a meeting Council officers suggested that the fence was unauthorised and that, in the absence of a planning application to regularise matters, the fence should be reduced to a maximum of 1 metre in height. The Council had indicated that although the fence appeared to be generally acceptable in planning terms there might be outstanding highway safety concerns regarding the height of the fence adjacent to Ashby Road. This concern was also stated in the Council's response to the costs application. They pointed out that, following advice from Derbyshire County Council (DCC), a previous planning application (prior to the erection of the fence) on the site had been refused on the grounds that visibility to the site was detrimental to highway safety. While it appears that the Council had not consulted the Highways Department regarding the fence the Council indicated that it was open to the appellant to consult them.

8. The appellant was unwilling to reduce the height of the fence to 1 metre or to submit a planning application for the fence as built. The enforcement notice was served on 23 July 2010 but dialogue continued between the parties. Your e-mail of 13 August 2010 urged the Council to withdraw the notice before your client incurred expense in submitting an appeal. In response the Council's enforcement officer stated that he was satisfied that the Council was justified in pursuing the matter and that your client had the option of submitting an appeal against the enforcement notice. The appeal was duly made but dialogue continued. The Council indicated that if a valid planning application was received to retain the fence they would consider withdrawing the enforcement notice. The application was submitted on 13 September 2010 and the enforcement notice was formally withdrawn on 8 October. Unconditional planning permission for the fence was subsequently granted.

Conclusions

9. The decisive issue in the determination of the costs application is encompassed by the guidance at B34 of the Costs Circular. This states:

³ The Council have not disputed the sequence of events as stated at (C1.1) of the costs application.

"Paragraphs 5 to 22 of PPG18 will be relevant to deciding whether the planning authority behaved reasonably in exercising its discretion to take enforcement action. Authorities should be able to show, on appeal, that they had reasonable grounds for concluding that the breach of control would unacceptably affect public amenity or the use of land and buildings meriting protection in the public interest; and it was expedient to issue the enforcement notice in the particular case."

B35 goes on to warn that planning authorities are likely to be at risk of an award of costs if they feel compelled to withdraw an enforcement notice after an appeal has been made.

10. The Council's stated reasons for issuing the enforcement notice, including their concerns on highway safety, have not been tested on appeal before an Inspector because the enforcement notice was withdrawn. However it is considered that, barring any material change in circumstances, if a Council decide to grant unconditional planning permission on a retrospective planning application for the same development as cited in a previously issued enforcement notice, it effectively amounts to an admission that it was not expedient to have issued the enforcement notice in the first place. In this case, although a retrospective planning application for the fence was not made prior to the issue of the enforcement notice the Council, having identified what they considered to be a breach of planning control, nevertheless had to satisfy themselves that it was expedient to issue an enforcement notice acting in the public interest.

11. It is noted that in response to the costs application the Council contended that, within the scope of B41 of the Costs Circular, there had been a material change in circumstances since the enforcement notice was issued. They stated that the change consisted of *"a willingness of the appellant to apply for a conditional planning permission, incorporating measures to address the local planning authority's legitimate highway safety concerns."* They added that the conditional planning permission sought did not merely seek to retain the fence; it incorporated measures likely to overcome the highway safety concerns described in the enforcement notice. However, your costs submission (19 November) pointed out that unconditional (underling added for emphasis) retrospective planning permission for *"the retention of existing fence and gate"* (Council ref: 9/2010/0861) had been granted on 11 November 2010. The decision notice stated:

"There are no policies directly relevant to the proposal however the scheme is considered acceptable when assessed against other material considerations. The development is not considered to have any adverse impact on highway conditions and is acceptable in appearance."

12. It is not clear why the appellant decided, following the submission of the appeal, to submit a planning application to regularise the position when he had previously declined to do so. But the belated submission is not considered to amount to a material change in circumstances, with reference to B41 of the Costs Circular, since the enforcement notice was issued. This refers to a material change in circumstances in the light of the availability of new information or the willingness of the appellant to apply for a conditional planning permission but that does not appear to be the situation in this case. Unconditional planning permission was granted.

13. While the Secretary of State accepts that the Council reviewed their position following the submission of the appeal, and that this led to the withdrawal of the enforcement notice thus minimising appeal expense, it is considered implicit in their decision to issue and then withdraw the enforcement notice, following the unconditional grant of planning permission for the existing fence⁴, that this is a case where the Council did not have "reasonable" grounds for considering it "expedient" to issue the enforcement notice at the outset. The Council therefore acted "unreasonably". As to unnecessary appeal expense, it is noted that by the time the enforcement notice was withdrawn the appellant had already incurred expense in appealing. A full award of costs will therefore be made.

FORMAL DECISION

14. For these reasons, the Secretary of State has decided that a full award of costs, on grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense, is justified in the particular circumstances.

COSTS ORDER

15. Accordingly, the Secretary of State for Communities and Local Government, in exercise of his powers under section 250(5) of the Local Government Act 1972, and sections 174 and 322 of the Town and Country Planning Act 1990 (as amended), and all other powers enabling him in that behalf, **HEREBY ORDERS** that South Derbyshire District Council shall pay to Mr S W Russell his costs of the enforcement appeal proceedings before the Secretary of State; such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal by Mr S W Williams against an enforcement notice issued by South Derbyshire District Council on 23 July 2010, more particularly described in paragraph 1 of this letter.

16. You are now invited to submit to South Derbyshire District Council details of those costs with a view to reaching an agreement on the amount. A copy of this letter has been sent to them. In the event that the parties cannot agree the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

17. There is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for judicial review. This must be done promptly.

Yours faithfully



JOHN GARDNER
Authorised by the Secretary of State
to sign in that behalf

⁴ In its existing position and at its existing height.



Appeal Decision

Site visit made on 29 November 2011

by Stuart Hall BA(Hons) DipTP FRTPI MCIHT

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

Decision date: 6 December 2011

Appeal Ref: APP/F1040/A/11/2160035

Land rear of Twyford Road, Barrow-on-Trent, Derby DE73 7HA

- 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 Hydes against the decision of South Derbyshire District Council.
 - The application Ref 9/2011/0301, dated 13 April 2011, was refused by notice dated 12 July 2011.
 - The development proposed is a storage building.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are two main issues in this appeal. The first is the effect of the proposed storage building on the character and appearance of its surroundings, having regard to its location within the Barrow-on-Trent Conservation Area (CA). The second is its effect on the living conditions of the occupiers of the single storey 64 Twyford Road, Barrow-on-Trent, in relation to outlook and disturbance. Whilst the Council's decision did not refer to this second issue, it takes into account the views of local residents expressed in the course of the appeal.

Reasons

Character and appearance of the CA

- 3 The site of the proposed building is part of a narrow strip of land between the A5132 village by-pass and the short rear garden of 64 Twyford Road. The strip forms part of a wedge of open land in the CA between the by-pass and No 64 and neighbouring properties, all outside the CA. The site's outer boundary is a 1.8 metre (m) fence, beyond which there is a thick deciduous hedge, a minimum of some 3 m high, at the back of the highway verge. The boundary of No 64's rear garden is marked by a wire mesh fence, adjoining which there is a similar but well maintained hedge on No 64's land having a maximum height of some 1.9 m. Two tall silver birch trees stand in the hedge and overhang the appeal site by around 3 m, approximately half its width at those points.
-

- 4 Whilst the reason for including the strip of land in the CA is unclear, it serves to contribute to a protected landscaped setting to the core of the village. The hedges and the two silver birch trees on the boundaries of the CA make a positive contribution to that setting, though it is unclear whether or not their bases are actually in the CA. The site's use as a base for a tree cutting and garden maintenance business is established. At the time of the site visit it was fully occupied by associated vehicles, plant and machinery. However, this was barely apparent from outside the site due to the screening effect of the boundary hedges, notwithstanding their absence of leaf cover.
- 5 The proposed building would have eaves at 2.5 m, and a ridge height of 3 m above a shallow pitched roof, requiring only limited pruning of the trees. Assuming that the outer hedge, in the control of the local highway authority, is maintained at its present height or above, then the building would be barely visible from the public realm. Placing the building on a concrete slab using "no dig" methods would be intended to avoid damage to adjoining hedges and trees. On that basis, bearing in mind the established legitimate use of the site and the current unrestricted height to which plant etc can be stored, the scheme would not harm the character and appearance of the CA or its setting.
- 6 However, measurements taken and agreed at the site visit bring into question whether the development can be carried out as proposed. Submitted plans show a building 5 m wide on a site which, by interpretation, is some 6 m wide at its narrowest point. In fact, the minimum width of the site appears to be no more than 5 m. Accordingly, there are substantive grounds for doubt as to the effects that construction would have on the silver birch trees and on the hedges on each side of the site. Therefore, in the absence of a measured survey of the site and proven proposals to protect trees and hedges in the course of construction, it is not reasonably possible to reach a clear conclusion as to the effect of the scheme on the character and appearance of the CA or its setting.

Outlook and disturbance

- 7 The depth of No 64's rear garden varies slightly either side of some 10.2 m, measured at its mid-point and agreed at the site visit. The 15 m long building would extend across almost the full width of the common boundary. Roughly the top 0.6 m of its flank and its shallow roof would be seen above the boundary hedge, partly screened by the two silver birch trees when in leaf. Unlike the plant etc currently stored on the appeal site, its visual impact would be permanent. Even so, its visible mass above the existing hedge would not be unduly overbearing in the outlook within No 64's garden or from its rear-facing habitable rooms. It would not cause material loss of light to No 64.
- 8 However, this finding as to outlook is also based on the assumed retention of the screening properties of the boundary hedge and of the silver birch trees which, as explained above, there is reason to question. Whilst occupiers have no right to a particular view beyond their boundary, were the effectiveness of existing screening to be seriously impaired then the incongruous appearance of the utilitarian commercial structure would be unduly intrusive in the otherwise domestic outlook from No 64. Again, doubts raised by apparent discrepancies between submitted plans and measurement agreed at the site visit preclude a clear conclusion as to the effect on occupiers' outlook.

- 9 There is no evidence that disturbance from the opening of a steel roller door would be more noticeable than is the starting of motors and the manoeuvring of vehicles that presumably occur now. The incidental maintenance of plant and equipment may not involve a material change from the established use, and there are no restrictions on times when legitimate activity can take place. Even so, the building could enable such activity beyond currently practical times, especially in winter, and so have the potential to cause material disturbance. However, in view of other overriding objections to the scheme, it is not necessary to canvass the views of the parties as to whether conditions regarding sound insulation and/or hours of use would be appropriate.

Conclusion

- 10 I have had regard to submissions regarding security needs, consolidation of a commercial use, and what other planning conditions may be appropriate should the appeal be allowed. However, these and all other matters raised are overridden by the identified substantive risk that material harm could be caused in relation to the two main issues. In the absence of verified evidence to the contrary, that uncertainty prevents a conclusive evaluation of the scheme in relation to relevant development plan and national planning policies. The statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA calls for a cautious approach. Accordingly, the appeal should not succeed.

Stuart Hall

INSPECTOR



Appeal Decision

Site visit made on 27 October 2011

by A D Robinson BA (Hons) DipTP MRTPI

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

Decision date: 18 November 2011

Appeal Ref: APP/F1040/A/11/2156714

Adrenaline Rush Off Road Karting at Hilton Fields, off Sutton Lane, Hilton, Derby DE65 5FE

- 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 Stephen Whittingham against the decision of South Derbyshire District Council.
 - The application Ref 9/2011/0052, dated 3 November 2010, was refused by notice dated 22 March 2011.
 - The development proposed is the change of use from agricultural land to motor sport (off road go karting).
-

Decision

1. The appeal is dismissed.

Main Issue

2. The effect of the proposed use on the character and appearance of the countryside.

Reasons

3. The appeal site lies in open countryside to the north of the village of Hilton. The site occupies part of a field set back from a narrow, sinuous lane that serves a farm, Hilton Fields, and provides a secondary access to another farm. The lane is accessed from Sutton Lane, a winding minor country road which connects Hilton with a small collection of residential properties just to the south of the site and also with the village of Sutton on the Hill some way to the north of the site.
4. Both national and local planning policies take a restrictive stance towards development in the open countryside. In terms of national policy, Policy EC6.1 in Planning Policy Statement (PPS) 4 "*Planning for Sustainable Economic Growth*" and paragraph 1iv of PPS7 "*Planning for Sustainable Development in Rural Areas*" stress the importance of protecting the countryside for its own sake. In respect of local policy, Environment Policy 1 of the adopted South Derbyshire Local Plan (LP) says that in the countryside new development will not be permitted unless it is essential to a rural based activity or its siting in the countryside is unavoidable. It goes on to say that where development is permitted in the countryside it should be designed and located so as to minimise the impact on the countryside.
5. The site occupies a position at the top of a rise in ground levels so that to the west, south and east the land falls away. In this elevated position the mounds

of rubber tyres marking the circuitous karting course can be seen from the lanes approaching the site from the south. These mounds can also be seen from where there are a number of dwellings along a length of Sutton Lane directly to the south. There are a couple of portacabins on the site which are used to store go karts and to act as changing rooms. I understand that toilet facilities have been removed from the site because of vandalism but would be reinstated if the appeal was to succeed. These structures add to the visual impact of the development in this elevated and exposed position. When the karting course is in use, parked cars would add to the visual impact of the development.

6. I am not convinced that the development could be designed so as to reduce its visual impact. Given the elevated position of the development within this tract of countryside, it would be difficult to effectively screen or soften the impact of the development. In any event, it would take many years for any planting to become established and to grow to a sufficient extent that would achieve the desired result.
7. The Council maintains that the two passing places which the County Highway Authority wishes to see constructed on the lane leading to the site from Sutton Lane would further erode the character and appearance of the countryside. I am not convinced. Whilst many of the fields are enclosed by well maintained, low hedgerows which allow views across the landscape and give the locality a surprisingly open character, the lane is not in an elevated position within the area and has lengths of substantial hedgerows. If the passing places were to be located to make full use of the cover provided by these taller, thicker hedgerows then I do not consider that the passing places would have an unacceptable visual impact on the rural scene.
8. I recognise that facilities for motor sports are to be found in rural areas, in large measure because of the amount of noise that they generate means that it is inappropriate to put them in built up areas. To mask the noise produced by go karts or other motor vehicles, it is often good practice to locate such facilities next to busy roads or developments which generate high levels of noise. An example of this is the motor sports track at Radbourne Lane, Etwall some three kilometres from the appeal site. At Radbourne Lane, the motor sports site is next to a roundabout on the busy A516.
9. This is not the case here. Although the heavily trafficked A50 threads its way just to the north of Hilton, it is some way from the appeal site and changes in topography means that the expanse of countryside around the site is relatively quiet. At most, there is just the very low rumble of the traffic on the A50. On my visit, a go kart was driven around the course at speed. This could be heard outside of the nearest properties on Sutton Lane. The noise produced by the go kart had a much higher whining tone which stood out from the distant rumble of traffic on the A50. The Council's suggested conditions stipulate a maximum of four go karts to be kept on the site. If four go karts were being driven then this would generate a much greater degree of noise. The coming and going of vehicles taking drivers and spectators to the site along local lanes and across the field to the parking area would add to the noise and disturbance associated with this development in this quiet location.
10. I conclude that the proposed use would adversely affect the character and appearance of the countryside. As such, the proposal would conflict with

adopted LP Environment Policy 1 and also be contrary to national policy for the safeguarding of the countryside for its own sake as set out in PPS 4 and 7.

Conclusions

11. For the reasons above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Alan D Robinson

Inspector