

DEVELOPMENT CONTROL COMMITTEE – 1 June 2004

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

REPORT OF THE PLANNING SERVICES MANAGER

1. Planning Applications

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

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

01/06/2004

Item 1.1**Reg. No.** 9 2003 1386 U**Applicant:**

Messrs Dunnicliff
C/O Scallywags Nursery
Castle Lane
Melbourne
Derby
DE731DY

Agent:

C. Underwood
Mr. C. A. Underwood
The Barn, Church Lane
Ravenstone
Coalville
Leicestershire
LE67 2AE

Proposal: The use as a health clinic of the office premises at 71 Derby Road Melbourne Derby

Ward: Melbourne

Valid Date: 13/11/2003

Site Description

The site is a presently unused office. It is situated at the rear of an existing office based business premises.

Proposal

The applicant proposes to use the premises as a health and fitness clinic, recreational rather than medical in its nature.

Applicants' supporting information

- a) The site was used as offices for the former Brown & Sharp premises.
- b) The applicant has considered re-using the building for office purposes, which would not require permission, but feels that the proposed use would contribute to the vitality of the area in a positive way.
- c) The premises are situated at the rear of existing office and benefit from pedestrian access only.
- d) During the daytime 2 visitors per house are expected, with 10-12 attending evening yoga classes. Most activity would be during off-peak hours.
- e) There would be no noise generated from the activity.
- f) The parking space in front of the existing offices could be utilised in the evenings. The parking area (situated in Queensway) for the adjacent fitness centre could also be shared as it is presently under utilised
- g) The majority of customers live on Melbourne but it is not known who would walk and who would drive.

Responses to Consultations

The Parish Council and Melbourne Civic Society have no objection.

The Environmental Health Officer has no objection subject to conditions to control noise.

The Highway Authority is not convinced that the parking arrangement will be adequate and recommends the grant of permission on a temporary basis only.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Leisure and Tourism Policy 1.

Local Plan: Recreation and Tourism Policy 1.

Emerging Local Plan: Policy LRT3.

Planning Considerations

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

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

Planning Assessment

The site is within a serviced village and there would be no external changes to the building. Therefore the proposal is acceptable in principle.

Subject to the recommendations of the Environmental Health Officer the proposal would not adversely affect the living conditions of nearby residents.

On the advice of the Highway Authority a permanent permission would not be appropriate in this instance. A temporary 18-month period to enable the impact on traffic to be assessed would address the Authority's concerns.

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. This permission shall be for a limited period only, expiring on 30 June 2006 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.
1. Reason: To enable the impact of traffic associated with the use to be adequately assessed in the interests of highway safety.

2. Any music played at the premises shall be background music only and shall be kept to a volume that is not audible outside the building and there shall be no usage of voice amplification equipment.
2. Reason: To protect the aural amenities of the occupiers of adjoining residential property.

01/06/2004

Item 1.2**Reg. No.** 9 2004 0106 M**Applicant:**

Mason Cash & Co Ltd
 High Street
 Woodville
 Swadlincote
 Derbyshire
 DE11 7WD

Agent:

Janet V Hodson
 Houndhill Courtyard
 Houndhill, Marchington
 Nr Uttoxeter
 Staffordshire
 ST148LN

Proposal: Outline application (all matters to be reserved except for means of access) for a residential development at Former Engineering Works High Street Woodville Swadlincote

Ward: Woodville

Valid Date: 02/02/2004

Site Description

This is the site of a former pottery, which more recently has been in industrial use and occupied by some large buildings towards the road frontage. The site is artificially raised above natural ground level, which prevails around the site largely occupied by housing. Opposite the site frontage are some Council flats, and the entrance to the Woodville Infant and Junior Schools. A pelican crossing stands to the south of the existing site access.

Proposal

This is an outline application for residential development with all matters, apart from access reserved for subsequent approval.

Applicants' supporting information

The salient points are summarised as follows:

- In January 2004, Mason Cash went into voluntary receivership. Regardless of whether a buyer can be found or not, there will be no further use of the application site, as it is superfluous to the operational requirements of the pottery.
- The site is surrounded by residential development and is in close proximity to schools, shops, jobs, health facilities, leisure, local services and bus stops.
- The site scores well in terms of the sequential approach to site selection, being previously developed land in a sustainable location.
- There is no demand for the site to remain in use for employment as, although the site has been marketed, no offers have been received for the premises. The report produced by Argyles revealed that during a six months marketing period no offers were made for the site

for a re-use or for redevelopment for employment purposes [the full marketing report is available on the case file].

- The development will sustain the viability of local businesses and maintain the need for services within the Woodville area, thereby preserving and enhancing the existing community through the redevelopment of the site.

A further statement has been submitted addressing contributions to education and affordable housing.

Education

The Education Authority requires a sum of £1400 per property. It is expected that the site will yield 60 residential units, comprising a mix of 1,2, 3 and 4 bed units. As a proportion of the units will be apartments, unlikely to be occupied by families with children and affordable housing serving local needs with children already in school, it would be equitable that education contributions were payable on 75% of the units, a contribution of 45 x £1400 being some £63000.

Affordable dwellings

Information supplied by the housing department indicates that in Woodville there is a lack of accommodation for singles and couples, and there is a requirement for 1 to 2 bed apartments or 2 to 3 bed dwellings. The income data that has been researched indicates that small dwellings/apartments would be affordable to those seeking to acquire a property. In the circumstances it is proposed that 20% affordable dwellings on the site is an achievable target, that comprises 50% of the affordable dwellings are affordable by virtue of being small units, available for sale on the open market and 50% of them are controlled by a registered social landlord and available for rent.

In the circumstances of this site, where the remediation of ground conditions will make the development more expensive to achieve, this would be a way of achieving the level of affordable units.

Planning History

Full planning permission was granted for the erection of 47 detached dwellings on the site (9/1297/0779/F) in April 1998. In January 2003 planning permission was refused to renew the previous permission on grounds that it would not achieve the higher density required in PPG3: Housing and would therefore be an inefficient use of land and contrary to the Government's objective of creating more sustainable patterns of development.

In February 2003 an outline application was submitted for residential development and withdrawn in July 2003.

In April 2003 an application was made to vary the time limit of the original permission to prolong its life. This was withdrawn in January 2004.

Responses to Consultations

The Highway Authority comments that residential development of this site has been considered on a number of occasions previously and is regarded as acceptable in principle from a highway aspect.

This outline application does not reserve access for subsequent approval and drawing number 3041/01 indicates an acceptable junction position. It is in a location that is marginally different to that previously permitted, the variation is 2.8m, but this does not raise any highway safety implications. The Highway Authority considers that the existing pelican crossing should be maintained in its present location and the junction position should ensure an acceptable compromise between its location relative to the crossing and the provision of visibility splays to an appropriate standard. It is recommended that planning permission be subject to conditions 13 to 19 below.

Ward Councillors Taylor and Isham have submitted a joint letter which questions the adequacy of the information submitted regarding the impact of the development on the highway and pedestrians and the case presented by agents responsible for marketing the site as an industrial opportunity. The main points raised are summarised as follows:

- Speed surveys were accomplished at times that normally see an amount of congestion and car parking in the area of the proposed development.
- Highway speed increases outside 8am to 6pm, and no measurements were taken outside this period.
- Visibility splays may involve the removal of roadside parking, which would affect established parking for schools and shops. If parking is to continue in the splay area this would have an effect on highway safety.
- Visibility towards Ashby would be unachievable due to being obscured by the use of the pedestrian crossing.
- No reference is made to the distance between the proposed access and the opposite access to Princess Close and whether this achieves the Derbyshire County Council guidelines.
- In view of the increased traffic levels since 1998 a full traffic impact assessment should be applicable. Derbyshire County Council acknowledge that traffic levels have increased in excess of those anticipated prior to the introduction of the A511 by-pass.
- The accident record goes back three years and therefore ignores a previous fatality at this location
- No consideration is given to the overall effect on safety for children in the area of the development. Should the application be found to be acceptable, then measures should be put in place to ensure child safety. The area sees a concentration and movement of up to 500 children plus their parents twice a day in term time.
- The content of the marketing report does not conform to adequate marketing. It is with one exception entirely local and amounts to a few newspaper adverts. Being at an early stage of the Local Plan, this marketing exercise should be what the Council should be setting its standards by.
- The stability of the ground is questioned which could be detrimental to the future safety of the developed site.
- The site is built up from spoil which may or may not contain contamination due to previous use. Once developed there should be no evidence of finished ground levels being elevated above surrounding profiles.
- There are a number of important boundary trees which provide amenity to the area and should be retained and TPOs should be applied as necessary.

- Has Woodville sufficient capacity to accommodate this and development already permitted?

The Highway Authority has responded to the highway points raised by the Ward Councillors, as follows:

'Planning permission has previously been granted for the development of 47 dwellings on this site under code number 9/1297/0779/F. Irrespective of whether this permission has lapsed it is assumed that it remains a material consideration in the determination of the current submission.

The existing commercial premises would have generated significant vehicle movements at an access which is substandard in terms of visibility for emerging drivers, and is poorly located adjacent to a pelican crossing. In raising no objections to the original 1997 application the Highway Authority considered that there was no justification to refuse planning permission since the proposed junction could be provided with improved, although marginally less than normally required, visibility splays and relocated slightly further from the crossing.

The current submission proposes an additional 13 dwellings compared to the previously submitted scheme and the Highway Authority considers that there is unlikely to be demonstrable harm to highway safety interests arising from the consequential increase in vehicle movements.

With regard to vehicle speed surveys Technical Advice Note TA22/81, which forms part of the national Design Manual for Roads and Bridges, sets out the criteria for speed measurement. It should be recalled that previous permission 9/1297/0779/F was based on measured vehicle speeds of around 36mph (dry weather 85%ile) but, nevertheless, as indicated above, normally required standards of visibility cannot quite be achieved within the site frontage.

The speed survey results that accompany this application are a little surprising; revealing 85%ile wet weather speeds of less than 30mph. However, given that visibility splays cannot be provided beyond the finite extent of the site frontage, but would then be close to the standard required by the higher 85%ile speeds measured in connection with the 1997 application, a debate regarding the methodology of the speed readings is largely immaterial.

It is acknowledged that there may be occasions when emerging driver visibility is obstructed by parked vehicles. This is a situation that would also occur when vehicle movements took place in association with the previous commercial use of the site. It is not regarded as a justifiable reason to withhold planning permission in respect of the current application. Further, it is not anticipated that variation to existing Traffic Regulation Orders will need to take place but this is regarded as a matter that falls beyond the planning process.

The junction stagger distance to Princess Close is regarded as satisfactory and, again, is unlikely to result in highway conditions that could justify refusal of planning permission.

With regard to accident data it is common for Transport Assessments to include records for the previous three years. The fatal accident referred to took place in 1996 and was raised by Councillor Taylor in connection with the 1997 application. The fatality involved an elderly female pedestrian outside the chemist's shop. This regrettable incident is not however felt to be a material consideration in the planning context.

Finally, it is considered that there are no measures associated with pedestrian routes to the school that the developers could realistically be asked to fund. The pelican crossing already

exists, and is regarded as satisfactorily located, and the provision of visibility splays will result in a significant widening of the footway in the vicinity.

The Environment Agency raises no objections in principle to the proposal subject to investigation as to the likely impact the development would have on ground and surface waters and any necessary remediation completed.

The Environmental Health Manager raises concerns about air quality on High Street in view of the high levels of traffic and whilst acknowledging that this proposal would not in its own right have a significant impact on the overall traffic increase, there are concerns regarding the accumulative impact of existing and future developments in Woodville and their impact on traffic flows and consequently, on air quality. He recommends that prior to permission being granted, an air quality assessment be undertaken to determine the impact of traffic increases in the area. He also raises concerns about traffic noise and recommends that a noise assessment be undertaken to determine which noise exposure category each area of the proposed development is likely to fall within and any mitigation measures carried out. A report should also be submitted which specifies the provisions to be made for the control of noise emanating from the site during construction to include alternatives to the particularly disturbing methods such as piling etc.

Following the submission of information regarding site investigation, the environmental health officer recommends that:

1. Current guidance is consulted and applied to the site
2. The recommendations from the supplied report, reference GRM/P277/D.2 dated June 1997 are followed:
 - The ground is assessed for contamination
 - A survey for gas is carried out.
3. A risk assessment is carried out based on the findings of the above investigations
4. Recommendations for proposed remediation, if necessary, are made accordingly.

Responses to Publicity

Two letters of objection have been received which are summarised as follows:

- Preference should be given to retaining the site for employment purposes
- An ex-manager of the site states that the site is made up of pottery waste and coal slag to a considerable depth. Also on site are very deep water wells; underground very large air ducts; sewage and drain pipes taking surface water from High Street; a soakaway pit; and water presence at the top end of the site which is thought to be spring water. The original engineering company came to provide employment for the village on land only considered suitable for industrial development. As such it should be preserved for employment for the village.
- Traffic congestion gets worse and between 6am and 7.30pm there is heavy traffic, which is very dangerous for people to cross the road.
- The capacity of existing facilities is limited in view of the current increase in the population of Woodville.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 3

Local Plan: Housing Policy 4, Recreation and Tourism Policy 4

Emerging Local Plan: ENV10, ENV14, H1, EMP3, C3, C5, LRT4, H10

Planning Considerations

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

- The acceptance of the development in principle
- Highway safety
- Loss of mature trees
- Contributions to education and local medical facilities
- Affordable housing
- Ground contamination and remediation.

Planning Assessment

The site is within the Swadlincote development boundary and is a previously developed site. It therefore complies with H1 of the emerging Local Plan performing well in terms of the sequential approach to site selection being previously developed land in a sustainable location. In accordance with Policy EMP3 the site has been marketed and it has been satisfactorily demonstrated that there is no demand for these premises in their present industrial use.

The Highway Authority raises no objections in principle and has responded to the issues raised by the Ward members. The Council relies on the Highway Authority for its expert advice on highway safety matters and following that advice has no evidence to suggest that undue harm would be caused to highway safety in this instance.

A number of frontage trees would need to be removed to facilitate the proposed access. This however also applied to the previously approved application for 47 dwellings and as policy has not changed in this regard there has been no material change in circumstances to justify refusing the application on these grounds. A number of mature trees could be retained to the rear of the splay line, which could be supplemented with additional new tree planting.

The applicant has made a case for providing an education contribution on 75% of the units, in view of the fact that a proportion of the units are unlikely to be occupied by families with children and affordable housing serving local needs with children already in school. This however is not consistent with contributions made by developers elsewhere in Woodville, and therefore it is considered that the full contribution should be made which based on 60 dwellings would be £84,000.

The affordable dwelling contribution is acceptable. It should be borne in mind that the additional ground remediation costs would make the development more expensive to achieve, and the approach taken would be a way of achieving the level of affordable units.

Outstanding issues relating to ground investigations and remediation can be resolved by way of planning conditions. With regard to finished levels it is in the developers interests to revert the

site to its natural levels to achieve the most efficient use of the site. The issue of levels can also be resolved by way of planning conditions.

It is proposed that the air quality assessment and proposed mitigation measures can be dealt with by way of a planning condition.

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

Recommendation

Provided the applicant enters into a Section 106 Agreement under the 1990 Town and Country Planning Act for financial contributions to education and medical facilities, a proportion of the development to be affordable housing and open space to be provided in accordance with the Council's guidelines, including the provision of children's play equipment, National Forest tree planting, an agreed sum for future maintenance and an agreed sum for off-site provision then:

GRANT permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
(b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.
1. Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the siting, design and external appearance of the buildings and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. No development shall commence on site in connection with this approval until samples of materials for the external elevations of the dwellings have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.
3. Reason: To ensure the materials are appropriate to safeguard and restore the local distinctiveness of the character of the area.
4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
4. Reason: In the interests of the appearance of the area.

5. No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the existing and proposed levels and contours to be formed, showing the relationship of the proposed mounding to existing vegetation and surrounding landform.
5. Reason: In the interests of the appearance of the area.
6. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
6. Reason: In the interests of flood protecting and pollution control.
7. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
7. Reason: In the interests of the appearance of the buildings, and the character of the area.
8. The landscape scheme 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.
8. Reason: In the interests of the appearance of the area.
9. Further to condition 2 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.
9. Reason: In the interests of the appearance of the area.
10. 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.
10. Reason: In the interests of the appearance of the area.
11. Incidental open spaces, excluding areas of incidental landscaping and highway verges, shall be provided to a standard of 0.8 hectare per 1,000 population on the following basis:
 - 4 bed dwelling - 3.5 persons
 - 3 bed dwelling - 3 persons
 - 2 bed dwelling - 2 persons
 - 1 bed dwelling - 1 person.
11. Reason: To ensure an adequate standard of provision, in the interests of amenity.

12. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).
12. Reason: To protect the amenities of adjoining properties and the locality generally.
13. No development shall be commenced until the new street junction to High Street has been provided in accordance with submitted drawing number 3041/01 or such other scheme as may be agreed by the Local Planning Authority. Prior to being used by vehicular traffic the first 12m of the access, or such other distance as may be agreed, shall be surfaced with a solid bound material.
13. Reason: In the interests of highway safety.
14. No development shall be commenced until visibility splays have been provided extending from a point 4.5m back from the High Street carriageway edge, measured along the centreline of the new junction, to the extremities of the site frontage abutting the highway in each direction. The land in advance of the visibility splays shall be cleared and constructed as footway.
14. Reason: In the interests of highway safety.
15. Within 28 days of the new junction being provided, or such other time period as may be agreed, the existing site access shall be permanently closed and footway and full kerbing reinstated in accordance with a scheme first submitted to and approved by the Local Planning Authority.
15. Reason: In the interests of highway safety.
16. No development shall be commenced until space has been provided within the curtilage for site accommodation, materials and plant storage, lorry loading/unloading, parking and manoeuvring and staff/visitors' vehicle parking and manoeuvring in accordance with a scheme first submitted to and approved by the Local Planning Authority. The facilities shall be maintained available throughout the construction period.
16. Reason: In the interests of highway safety.
17. The internal layout within the site shall accord with the County Council's 'Roads in Housing' policy document unless otherwise agreed in writing by the Local Planning Authority.
17. Reason: In the interests of highway safety.
18. Unless otherwise agreed, disposal of highway surface water drainage shall be via a positive gravity-fed system to an approved outfall (surface water drain, highway drain or watercourse sanctioned by the Water Company, Highway Authority or Environment Agency respectively).
18. Reason: In the interests of highway safety.
19. All matters relating to layout including garaging/vehicle parking and manoeuvring space shall be reserved for subsequent approval.
19. Reason: In the interests of highway safety.
20. No development approved by this planning permission shall be commenced until:

a) A desk top study has been carried out which shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information. Using this information a diagrammatical representation (Conceptual Model) of the site or all potential contaminant sources, pathways and receptors shall be produced.

b) A site investigation has been designed for the site using the information obtained from the desk study and any diagrammatical representations (Conceptual Model). This should be submitted to and approved in writing by the Local Planning Authority prior to that investigation being carried out on the site. The investigation must enable a risk assessment to be undertaken relating to ground and surface waters both on and off the site which may be affected, and refinement of the Conceptual Model, and the development of a Method Statement detailing the remediation requirements.

c) The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment has been completed.

d) A Method Statement detailing remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the Site Investigation has been submitted to the Local Planning Authority. This should be approved in writing by the Local Planning Authority prior to that remediation being carried out on the site. Prior to the commencement of main site works the approved remediation works shall be completed in accordance with the approved method statement to the satisfaction of the Local Planning Authority. Appropriate validation of the remedial scheme shall be submitted to the Local Planning Authority for written approval.

20. Reason: To ensure the site is suitable for its intended use, to protect the quality of the water environment.
21. Prior to the commencement of work on site in connection with this development a noise assessment shall be undertaken in accordance with Annex 1 of PPG24 in order to determine which noise exposure category each area of the proposed development is likely to fall within. The report shall include mitigation measures where necessary and shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out before the development is brought into use.
21. Reason: To safeguard the amenities of future occupiers of the development.
22. Prior to the commencement of work on site in connection with this development the recommendations from the supplied report, reference GRM/P277/D.2 dated June 1997 shall be followed, namely the ground is assessed for contamination and a survey for gas is carried out. A risk assessment shall be carried out based on the findings of the above investigations and reported in writing to the Local Planning Authority. The report shall include recommendations for proposed remediation, if necessary, which shall be carried out in accordance with a timetable that has been approved in writing by the Local Planning Authority.
22. Reason: In the interests of safeguarding public health and safety.
23. No development shall be carried out on the site until an air quality assessment has been undertaken to determine the impact of traffic increases on the area. The report shall include proposed mitigation measures which shall be carried out in accordance with a timetable that has been approved in writing by the Local Planning Authority.
23. Reason: In the interests of safeguarding public health.

24. No development shall commence on site in connection with this development until a report has been submitted to and approved in writing by the Local Planning Authority which specifies the provisions to be made for the control of construction noise emanating from the site to include alternatives to the particularly disturbing methods such as piling etc. and the development shall be carried out in accordance with the specified provisions.
24. Reason: To safeguard the amenities of neighbouring residents.

Informatives:

The Environment Agency recommends installation of fittings that will minimise water usage such as low, or dual flush WCs, spray taps and economical shower heads in the bathroom. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. In the garden consider installing a water butt to provide a natural supply of water for plants. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations, reducing the costs when compared to traditional installations, reducing the cost to the environment and the householder.

With regards to the investigation and remediation of ground contamination, further guidance can be obtained from the following:

- . CLR Guidance notes on Soil Guideline Values, DEFRA and EA
- . Sampling Strategies for Contaminated Land, CLR4 1994, DoE
- . Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- . Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R and D Technical Report P5 - 066/TR 2001, Environment Agency.
- . Guidance for the Safe Development of Housing on Land Affected by Contamination, Environment Agency. ISBN 0113101775.

01/06/2004

Item 1.3**Reg. No.** 9 2004 0423 R**Applicant:**

Rodney Stuart & Margaret Ann Fielden
 Arleston House, Arleston Lane
 Barrow On Trent
 Derby
 DE73 1HN

Agent:

Rodney Stuart & Margaret Ann Fielden
 Arleston House, Arleston Lane
 Barrow On Trent
 Derby
 DE73 1HN

Proposal:

The removal of conditions 10 and 11 of planning permission
 9/0692/0274/F Arleston House Farm Arleston Lane Barrow
 On Trent Derby

Ward:

Stenson

Valid Date:

07/04/2004

Site Description

The subject property is an outbuilding at Arleston House that has been converted to residential accommodation for purposes ancillary to the main house. It is a traditional farm structure, visible from the road.

Proposal

The applicant seeks to remove the conditions that ties occupation to the main house and removes permitted development rights to enlarge and extend the building.

Applicants' supporting information

- a) There would be no adverse effect on the amenity of the main house as there would be no increase in usage of the access, there is a six-metre gap between the buildings and a physical boundary exists around most of the building.
- b) The other outbuildings to the original Arleston House have already been sold on for separate occupation.

Planning History

Planning permission and Listed Building Consent were granted in 1992 (9/0692/0274/F & 0275/L) to convert the building.

Responses to Consultations

The Highway Authority has no objection.

Responses to Publicity

A neighbour objects as follows:

- a) Removal of the condition in respect of enlargement and extensions give the owners free reign to extend, with potential harm to the listed building.
- b) There could be additional traffic and noise if the occupancy condition is removed, particularly if there were to be subsequent extensions.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Environment Policy 10 and Housing Policy 6.

Local Plan: Environment Policy 13 and Housing Policy 7.

Emerging Local Plan: Policy ENV19 & H1.

Planning Considerations

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

- The principle.
- Residential amenity.
- Impact on the listed building.
- Traffic.

Planning Assessment

Whilst the site does not lie in a serviced settlement the removal of the occupancy condition would have no impact on sustainability objectives. This is a view taken by an Inspector in a comparable case in Twyford (9/2000/0792/R). Therefore the application is acceptable in principle.

Subject to designation of parking space away from the main habitable windows of the main house the impact on the occupiers thereof would not be demonstrably adversely affected.

The impact on the listed building would be neutral. Any subsequent alterations or extensions would be subject to separate planning and/or listed building consent applications in their own right.

The impact on traffic would be neutral, this being a view held by the Inspector in the Twyford case.

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. Before the dwelling is first brought into use a parking area shall be provided in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.
1. Reason: In the interest of residential amenity.

01/06/2004

Item 1.4**Reg. No.** 9 2004 0535 TP**Applicant:**

Mr Tom Hartley Jnr
 Barratt Mill, Shortheath
 Overseal
 Swadlincote
 Derbyshire
 DE12 6BL

Agent:

Mr Roger Croxall
 9 Coronation Street
 Overseal
 Swadlincote
 Derbyshire
 DE12 6LH

Proposal: The felling and pruning of trees and hedges protected under
 South Derbyshire District Council Tree Preservation Order
 185 at Barratt Mill Shortheath Overseal Swadlincote

Ward: Seales

Valid Date: 28/04/2004

Site Description

The site is made up of a hedgerow and other woody species/trees which are covered by a Tree Preservation Order and are located alongside a driveway/ public footpath.

Proposal

The application is for the felling of an elder bush, pruning of a holly tree and pruning of a privet hedge and thorn hedge.

Applicants' supporting information

The submission states that the elder bush requires removal as it is tangled in the holly tree, that the holly tree is blocking the line of the footpath and that the hedges require pruning in order to remove parts which are hanging out of the ground and for neatness.

Planning History

In 2002 the Applicant removed large numbers of the trees covered by the Tree Preservation Order without consent and was subsequently prosecuted and fined by the Court. The Applicant is required to replace the trees and a Tree Replacement Notice has been served.

Responses to Consultations

The Council's Arboriculturist supports the proposed work. He states that the felling of the elder is considered acceptable as it is entangled in a reasonable holly tree, and that the proposed pruning to the holly tree is minor work only as is the proposed pruning work to the hedges.

Responses to Publicity

Seven letters of representation have been received raising the following issues:

- Objection to the pruning of the holly tree as it doesn't obstruct the footpath and concern that the hedge should just be pruned and no parts removed.
- Concern that the hedge is important as a wildlife habitat and that this should not be disturbed.
- The Applicant wishes to have the work carried out to facilitate the re-direction of the footpath to the right hand side of the driveway and the footpath currently runs the full width of the driveway not on the margins.
- Concern that many trees have already been removed with a loss of visual amenity and destruction of habitat and that any further removal will alter and damage the whole natural infrastructure of the area. The area is struggling to regrow and mature already.
- The site is within the National Forest and on a well used Public Footpath.
- The hedgerow provides important privacy for the rear garden and aspect of the adjoining dwelling from the Public Footpath.
- The hedge is used by many species of nesting birds and provides a rich source of food for birds. The hedgerow also provides good cover and protection for several animal species.
- The trees and hedgerows assist in maintaining water levels in the area and these have changed following previous removal of trees causing flooding problems.
- The site is on the Derbyshire Wildlife Register and is an important habitat to species which are protected under the Wildlife and Countryside Act 1981.
- Previously removed trees have not yet been replaced as required.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Environment Policy 16

Local Plan: Environment Policy 9

Planning Considerations

The main issue central to the determination of this application is the impact of the proposed felling and pruning works on the amenity value of the protected woodland.

Planning Assessment

The proposed work is the felling of one bush/ tree and pruning of another tree and two hedges. This work is considered to be small scale and only affects the very edge of the protected woodland. The scale of the pruning works to be carried out can be agreed on site prior to work commencing. The trees and hedges that will be affected are visible from and adjoin the public footpath however they are viewed against the backdrop of the remaining protected woodland. It is not considered that the work proposed will adversely affect the amenity value of the woodland tree preservation order and the Council's Arboriculturist and Landscape Architect supports the proposed work.

In undertaking the work the Applicant will have to comply with the provisions of the Wildlife and Countryside Act 1981 with respect to protected species. Additionally the Applicant would require consent to divert the Public Right of Way.

Recommendation

GRANT permission subject to the following conditions:

1. Two week's prior notice of the date on which the work is intended to be carried out shall be given to the local planning authority in order that an officer can arrange to be on site prior to the work commencing to agree the extent of the pruning.
1. Reason: To ensure that the amenity value of the woodland/ hedge is not adversely affected by the pruning works.
2. The work shall be carried out in accordance with BS3998: 1989 - Tree Work.
2. Reason: To ensure that the work is carried out to an appropriate standard.