

manege should be restricted to the applicant and her immediate family. If a wider use were proposed, then issues of parking, access and other issues would need to be addressed.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Environment Policy 1

Emerging Local Plan: Policy ENV 7

### **Planning Considerations**

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

- The impact of the development on the countryside.
- The impact on neighbours.

### **Planning Assessment**

The proposed hours of operation represent the minimum that the applicant would be willing to accept. Conditions could be imposed to limit the use of the site to the applicants and immediate family and a landscaping scheme could be required on the common boundary.

The site occupies a hilltop location where the lights do have the potential to be intrusive. The issues are finely balanced. However, the extension of the manege itself is an acceptable use in the countryside and the lights could be subject to a condition. The lights on the existing manege are closest to the dwellings and the additional lights are unlikely to add significantly to the light intrusion on that property. The light intrusion in the countryside would be minimised by the presence of hedges that are currently quite tall.

On the basis of the above the following recommendation is appropriate.

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

### **Recommendation**

**GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Prior to the development hereby approved commencing, details of the finished levels of the manege 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 levels. Any material imported into the site to form the manege shall be inert.
2. Reason: To protect the amenities of adjoining properties and the locality generally.

3. Material shall only be imported to the site to form the manege between the following hours - 0830 - 1800 Monday to Friday; 0900 - 1400 on Saturdays; there shall be no material imported onto the site on Sundays or on Bank or Public holidays.
3. Reason: In the interests of the residential amenity of the occupiers of adjacent dwellings.
4. The use of the manege hereby permitted shall be limited to the following times 0630 - 2100 and no lighting shall be swiched on outside of those hours.
4. Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.
5. The use of the manege shall be limited to the owners of the land and their immediate family.
5. Reason: In the interests of the amenity of the occupiers of the adacent dwelling where unlimited use of the manege on a commercial basis would be detrimental.
6. 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.
6. Reason: In the interests of the appearance of the area.
7. 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.
7. Reason: In the interests of the appearance of the area.
8. No development shall take place until precise details of the sources of illumination, including intensity, angling and shielding, and the area of spread of light have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them.
8. Reason: To preserve amenity and/or prevent danger to road users.

Informatives:

Immediate family for the purposes of condition 5 shall be interpreted as the owner, his spouse, their children and grandchildren together with the owners brothers and sisters.

20/04/2004

**Item** 1.9**Reg. No.** 9 2004 0271 O**Applicant:**

Mr N Jackson  
26 Woodland Way  
Melbourne  
Derby

**Agent:**

David Bown  
David Bown  
7 Ash View Close  
Etwall  
Derby  
DE656JY

**Proposal:** Outline application (all matters to be reserved) for the erection of a detached dwelling in the Garden At 17 Station Road Melbourne Derby

**Ward:** Melbourne

**Valid Date:** 08/03/2004

**Site Description**

The site is the large rear garden to No 17 Station Road, some 28 metres in depth and backs onto the rear gardens, of similar depth, to dwellings in Packhorse Road.

**Proposal**

The application is in outline only and seeks permission for a detached building to form a dwelling for a dependant relative.

**Responses to Consultations**

The Parish Council has no objection.

Melbourne Civic Society objects for the following reasons:

- a) The site is not large enough.
- b) There would be a highly injurious effect on the privacy of neighbours.
- c) There would be an adverse effect on the character of the whole crescent, which has recently been enhanced by tree planting with the help of the Society.
- d) There would be a most unfortunate precedent for backland development.

The Highway Authority has no objection provided the development is occupied as ancillary accommodation.

## Responses to Publicity

A neighbour in Packhorse Road objects on the grounds that there would be overlooking and loss of privacy, but that a bungalow for a dependant relative would have less impact.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5 & 11.

Emerging Local Plan: Policy H1

## Planning Considerations

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

- The principle.
- Effect on the general character of the area.
- Residential amenity.
- Highway safety.

## Planning Assessment

The site lies within the boundary of a serviced village. Therefore there is no objection to residential development in principle. There is no policy against backland development.

It is understood from the applicant that a single storey building is required for a dependant relative. Such a building would have minimal impact in the street scene and the character of the area would not be demonstrably harmed. In the absence of a detailed scheme it would be prudent and appropriate to impose a condition to this effect.

A single storey building could be effectively screened by appropriate boundary treatment such that adjoining neighbours would not be overlooked or suffer loss of light.

On the advice of the Highway Authority it would be appropriate to impose a condition tying the dwelling to the existing property as ancillary living accommodation.

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. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

1. Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the siting, design and external appearance of the building(s) the means of access thereto and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. The dwelling shall be single storey only.
3. Reason: To ensure that the amenities of the occupiers of adjoining dwellings are protected.
4. The boundary treatment required pursuant to Condition 2 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. The living accommodation hereby permitted shall be occupied solely by members of the household of 17 Station Road Melbourne or by domestic staff, and shall not be severed from the main house as a separate and unconnected dwelling.
5. Reason: Permission is granted in the light of your particular personal circumstances. Although the erection of an extension to provide additional accommodation to be used in conjunction with the existing dwelling is acceptable, the Council would not normally be inclined to allow the formation of a separate residential unit in this locality. Since the extension includes all the domestic facilities necessary for the establishment of a separate self-contained unit, the Council hereby seeks to make it clear that separate occupation is not authorised by this permission.
6. 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).
6. Reason: To protect the amenities of adjoining properties and the locality generally.

20/04/2004

**Item** 1.10**Reg. No.** 9 2004 0321 A**Applicant:**

Pathfinder Pubs  
 Albany House  
 Albany Road  
 Wolverhampton  
 WV1 4JT

**Agent:**

Principle  
 Unit R, Wyrley Road  
 Witton  
 Birmingham  
 B6 7DA

**Proposal:** The display of an illuminated double sided pole sign at  
 Crewe & Harpur Arms Derby Road Swarkestone Derby

**Ward:** Aston

**Valid Date:** 24/03/2004

**Site Description**

The site is a longstanding public house and restaurant adjacent to Swarkestone Bridge. The main building and the attached former stable block are listed buildings. There is a beer garden opposite, next to the River Trent, separated from the front of the main building by Woodshop Lane.

**Proposal**

The application seeks consent for a hanging sign at the Derby Road frontage close to the main building. It is already in place.

**Site History**

Permission has recently been granted to convert and extend the former stable block into overnight accommodation and to pave part of the beer garden, as part of current renovation works. Prior to that extensions were permitted in 1993. Applications for lighting are contained in this agenda (9/2004/0214/F & 0215/L).

**Responses to Consultations**

The Highway Authority has no objection in principle.

**Responses to Publicity**

Three neighbours object in the following terms:

- a) The sign has already been erected and is totally out of keeping with the conservation area.

- b) The sign breaks the historic link with the Harpur Crewe Estate by removing the word 'Arms' and diminishing the Harpur name. The applicants may subsequently change the name of the premises altogether. (Comment: The name of the premises is a matter for the owner.)

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Environment Policies 9 & 10

Local Plan: Environment Policies 12 & 13

Emerging Local Plan: Policies ENV 19, 20 & 24.

### **Planning Considerations**

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

- Visual amenity.
- Public safety.

### **Planning Assessment**

Whilst the sign employs modern materials (square metal post and contemporary gibbet with painted aluminium sign) it also employs the character of a traditional hanging sign. It is well designed and the result would be an enhancement to the character and appearance of the building and the conservation area, compared with the example that it replaces. On the advice of the Highway Authority the proposal would not prejudice safety interests, subject to conditional control to ensure there would be no dazzle to motorists.

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 advertisement shall be removed and the site restored, to the satisfaction of the Local Planning Authority, no later than five years from the date of this consent, subject to the right to apply for a further period.
1. To accord with The Town and Country Planning (Advertisement) Regulations 1992.
2. The intensity of illumination shall not exceed 500 candelas/sq.m.
2. Reason: To preserve amenity and prevent danger to road users.
3. All external light sources shall be shielded from highway traffic.
3. Reason: To (preserve amenity and) prevent danger to road users.
4. All external light sources shall be angled and shielded and of such an intensity as to confine the area lit to the surface of the advertisement hereby permitted.
4. Reason: To preserve amenity and/or prevent danger to road users.

5. No part of the advertisement shall overhang the public highway.
5. Reason: For the avoidance of doubt.



20/04/2004

**Item** 1.11**Reg. No.** 9 2004 0322 L**Applicant:**

Pathfinder Pubs  
Albany House  
Albany Road  
Wolverhampton  
WV1 4JT

**Agent:**

Principle  
Unit R, Wyrley Road  
Witton  
Birmingham  
B6 7DA

**Proposal:** The display of an illuminated double sided pole sign at  
Crewe & Harpur Arms Derby Road Swarkestone Derby

**Ward:** Aston

**Valid Date:** 17/03/2004

See report 9/2004/0321/A

**Recommendation**

**GRANT** permission subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of five years from the date of this consent.
1. Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.



20/04/2004

**Item** 2.1**Reg. No.** 9 2004 0138 F**Applicant:**

Mr Buckland  
 Castle View, Uttoxeter Road  
 Foston  
 Derby  
 DE65 5PX

**Agent:**

Mr Buckland  
 Castle View, Uttoxeter Road  
 Foston  
 Derby  
 DE65 5PX

**Proposal:** The raising of ground level to provide a parking/play area together with the erection of a detached double sectional garage at Former Castle View Service Station Uttoxeter Road Foston Derby

**Ward:** North West

**Valid Date:** 10/02/2004

**Site Description**

The site comprises an area immediately to the rear of the gypsy site at Castle View. It has been enclosed by a post and rail fence about 1.2 metres high and is about 1.0 metre lower than the site.

**Proposal**

As described above

**Planning History**

Permission to redevelop the site for gypsy caravans was granted at appeal in 2001. An application for the temporary siting of three caravans was allowed in October 2001 together with permission to retain a washroom facility on the site. Earlier this year an application to extend the temporary permission was received and subsequently withdrawn in favour of the current application. Permission for the siting of 6 additional caravans on the site (three residential and three utility) were granted permission on appeal last year.

**Responses to Consultations**

Foston and Scropton Parish Council objects to the development on the grounds that the development would encroach into the countryside.

Hatton Parish Council views will be reported at the meeting if available.

The County Highways Authority has no comments

## Responses to Publicity

None

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4; Housing Policy 8

Local Plan: Environment Policy 1 & Housing Policy 15

Emerging Local Plan: Policies ENV 7 & 21 & H 11

## Planning Considerations

The main issues central to the determination of this application is compliance with Development Plan policy.

## Planning Assessment

The development plan requires that development in the countryside should be essential in that location and that if permitted, should be so designed and located that its impact is minimised. Gypsy policies state that development should be capable of sympathetic assimilation into its surroundings.

The original site has become well established and has assimilated into the area. The proposal would represent a significant expansion of the site into the countryside and would only become readily usable as a parking area if the ground levels were to be raised to the same level or just below the level of the permitted site.

No details of how the land would be retained have been submitted but the options would be a retaining wall or a slope down to the fields. Either alternative could be controlled by condition. The erection of the garage is shown as being well related to the mobile home on the site but is close to the public footpath that runs close to the site boundary. Vegetation near the path would help to screen the garage from that vantagepoint for 'close up' views.

There would clearly be an enlargement of the site apparent from Uttoxeter Road and there would be views of the proposed garage from there as well as from the footpath. However, the garage would be seen in the context of the mobile home. The use of the land as parking area could be interpreted in two ways. The caravans that have permission to be sited on the land could be set further back into the site to create more room around them or the parking area could be for the owner's vehicles. Either way there would be some further intrusion into the countryside arising from the proposal.

On balance, the development would increase the intrusion into the countryside hereabouts and the refusal of permission on this basis could be defended.

## Recommendation

**REFUSE** permission for the following reasons:

1. The extension of the site onto the land indicated on the submitted drawing would result in a prominent intrusion of the developed curtilage into an area where the primary landscape

is of a pastoral agricultural nature. This development is not essential in this location and is contrary to the provisions of General Development Strategy Policy 4 of the adopted Derby and Derbyshire Joint Structure Plan, Environment Policy 1 of the Adopted South Derbyshire Local Plan and Policy ENV 7 of the emerging replacement South Derbyshire Local Plan. Each of these policies seek to ensure that the countryside is protected for its own sake in the interests of retaining its character and appearance.

20/04/2004

**Item** 2.2**Reg. No.** 9 2004 0222 U**Applicant:**

Mr Mrs M Nolan  
 3, Walnut Close  
 Burnaston  
 Derby  
 DE65 6PA

**Agent:**

Ian Woore/Haydn Watkins  
 Peter Woore Watkins Partnership  
 61 Friar Gate  
 Derby  
 DE1 1DJ

**Proposal:** The erection of a garden store and extension of residential curtilage at 3 Walnut Close Burnaston Derby

**Ward:** Etwall

**Valid Date:** 24/02/2004

**Site Description**

The site comprises part of a field immediately to the rear of the proposed dwelling now under construction. A public footpath follows the south boundary and the north boundary is a hedge. The east boundary is not defined.

**Proposal**

It is proposed to erect a garden store adjacent to the north boundary and enclose the east boundary with a post and rail fence planted with a thorn hedge. Tree planting would also be undertaken. The applicants have already moved the boundary fence and topsoil has been tipped on the adjacent field arising from the development of the new house.

**Planning History**

Permission for the erection of the new dwelling was granted in 2003, it is currently under construction. The applicants' existing house would be demolished once the new house is complete.

**Responses to Consultations**

Burnaston Parish Council objects because the garden extension extends the village boundary beyond that defined in the Structure Plan. Granting of this application would set a precedent for the rest of the village to build and encroach either towards Mickleover Country Park or Etwall. The Parish Council wishes to see the retention of the village in its existing character. This does not mean that it is against the growth of the village within its confines, but it does not wish to see it grow and lose the rural character that it currently has. The encroachment of this area is on the crest of a hill and will be seen far and wide. It will also mean that persons using the residential area will overlook properties and gardens below - thus encroaching on residents' privacy.

The Parish Council commented that the property was too large for the plot and foresaw this application, along with a possible further application for stables. The Parish Council is obviously aware that the applicant can make piecemeal applications but finds it difficult to fully comment when the full picture is not being declared at one go. Thus the Parish Council would respectfully request that a condition be imposed that seeks for the future plans to be disclosed so that it may make a valid and informed decision.

The Parish Council notes that the full area owned is not currently being applied to be converted into residential use and would now seek, if the application were granted, that a condition is imposed that the existing agricultural land is not to be converted to residential use.

### **Responses to Publicity**

None

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Environment Policy 1

Emerging Local Plan: Policy ENV 7

### **Planning Considerations**

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

- The impact of the proposals on the character and appearance of the area in relation to the above development plan policies

### **Planning Assessment**

The house occupies a prominent ridge top location and the proposed garden extends beyond the ridge therefore intruding outside a natural constraint to the outward encroachment of the village. It is prominent from two public footpaths and from works undertaken by the applicant; there is also a change in the level in the field proposed with the arisings from the development of the new house that have been deposited on the land.

The deposited material on the site needs to be regraded and if members were minded to accept the recommendation, then enforcement against the tipped material would be necessary.

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**

(A) **REFUSE** permission for the following reason:

1. The extension of the garden on to the land indicated on the submitted drawing would result in a prominent intrusion of domestic garden into an area where the primary landscape is of a pastoral agricultural nature. This development is not essential in this

location and is contrary to the provisions of General Development Strategy Policy 4 of the adopted Derby and Derbyshire Joint Structure Plan, Environment Policy 1 of the Adopted South Derbyshire Local Plan and Policy ENV 7 of the emerging replacement South Derbyshire Local Plan. Each of these policies seek to ensure that the countryside is protected for its own sake in the interests of retaining the character and appearance of the countryside.

**(B)** If the above recommendation is accepted by the Committee, then the Planning Services and Legal and Democratic Services Managers be **AUTHORISED** to seek the incorporation of the material tipped on the land into land within the ownership of the applicant or its removal either through the mechanism of the submission of a planning application or necessary enforcement action up to and including prosecution of the case in the magistrates court.



## APPEAL DISMISSED

Appeal by Mr. D.P.Edwards against:

Enforcement Notice to correct breach of planning control at Seale Lodge Farm, Burton Road, Acresford, being the unauthorised storage of touring caravans on land outside the area permitted under planning application 9/2001/0055/U which authorised the storage of 23 touring caravans.

The Notice was issued for the following reasons:

- 1. The proposed use of the site would result in the creation of an unacceptable visual intrusion into the rural landscape contrary to General Development Strategy Policy 3 and Environment Policy 1 of the Joint Structure Plan, Environment Policy 1 of the Local Plan which seek to ensure that the character of the rural landscape and the countryside is protected from inappropriate development.*
- 2. The development runs contrary to the principles of sustainable development in that it encourages trips by private motor vehicles to deliver and collect the caravans from urban areas. The proposal is therefore contrary to General Development Strategy Policy 1 of the Joint Structure Plan which seeks to ensure that new development respects the principles of sustainable development by contributing to the provision of opportunities for (inter alia) protecting and improving the natural environment and minimising pollution*

Having commented on certain procedural matters relating to third party representations and pointing out that there was a further appeal pending with respect to the refusal of planning permission for the development involved, the Inspector came to a series of conclusions in the matter of the three grounds of appeal submitted.

1. That the breach of control alleged in the enforcement notice had not occurred as a matter of fact.

The appellant took the view that not all the land identified on the plan attached to the enforcement notice had been used for the purpose alleged, nor were significant parts of it said to be capable of such use.

The Inspector concluded that it would be by no means impossible to use much of the land for the purpose and that the area defined on the plan was an accurate interpretation of the unit in which the unauthorised development had occurred. He stated that, on such a basis, the choice of the enforcement notice to specify this overall site was reasonable and appropriate.

2. That the steps required to comply with the requirements of the notice are excessive and lesser steps would overcome the objections.

The appellant raised the issues of the need to protect rights under the GPDO for the storage of touring caravans in the ownership of the occupants of Seale Lodge Farm and the requirement for the removal of the crushed stone accessways.

The Inspector took the view that the occupiers rights under the GPDO would not be affected by the notice and that no variation was required in response to this matter. He also stated that the removal of the crushed stone was an appropriate matter for inclusion in the notice, the subsequent disposal or re-use of the material for agricultural purposes being the possible subject of informal agreement between the parties.

3. That the time given to comply with the notice is too short

The appellant sought a 12 month compliance period in place of the specified 56 day period on the basis that a number of the tenants had 'rolling contracts' of up to 12 months.

The Inspector concluded that, whilst the enforcement notice would not come into effect until the appeal was dismissed, the appellant would be aware of the implications of its terms. However, bearing in mind the various requirements of the notice and their necessary sequence the compliance period was varied to four months.

The notice was accordingly upheld with variations the effect of which is to extend the compliance period to four months and amend the number sequence in the paragraphs relating to Schedule 3.

## APPEAL DISMISSED

Appeal by Mr Curley

Outline application (all matters to be reserved) for a dwelling in the side garden of 60, Yew Tree Cottage Main Street Ambaston Derby (9/2003/0680)

The application was refused permission for the following reason(s):

1. *The site lies in the South East Derbyshire Green Belt. Development of the site for residential purposes would not be appropriate to the green belt and would impair its openness. The proposal is therefore contrary to the following development plan policies: Derby and Derbyshire Joint Structure Plan General Development Strategy Policy 7; and South Derbyshire Green Belt Policy 1.*

2. *Ambaston is an isolated rural settlement with no significant local services. Development of the site would result in the need for occupants to rely on the private car for transport and access to services, contrary to the objectives of sustainable development. As such the proposal is contrary to Housing Policy 1 of the draft South Derbyshire Local Plan.*

The Inspector considered that there were 2 main issues; whether the development would be inappropriate in the green belt and whether it would meet sustainability objectives.

On the first issue the Inspector noted that the development would be outside the framework of the village and would therefore be inappropriate development in the green belt. The dwelling would diminish the openness of the green belt. He saw no very special circumstances, including the previous grant of permissions for infill development and conversions in the village.

On the issue of sustainability he noted that the village has only basic services and is not within reasonable walking distance of Shardlow. Given the substantial size of the appeal site he concluded that a family sized dwelling could be erected that would likely result in several vehicle trips per day. The development would thus increase reliance on the private car and conflict with national and local policy objectives to focus additional housing in urban areas to avoid this.

## APPEAL ALLOWED

### Appeal by 3G UK LTD

The erection of a 20 metre high mono telecommunications pole, three antennas, one dish and one equipment cabinet at Field Off Arleston Lane Stenson Fields Derby (9/2002/1350)

The application was refused permission for the following reason(s):

1. *The site lies within a narrow belt of open countryside lying between the urban area of Stenson Fields/Sinfin and the A50 trunk road. The erection of the proposed mast, along with its associated development, would be a visual intrusion into the countryside, harming its amenity and character, contrary to the following development plan policies:*

*Derby and Derbyshire Joint Structure Plan General Development Strategy Policy 4; and South Derbyshire Local Plan Environment Policy 1 and Community Facilities Policy 4.*

*The proposal is therefore also contrary to the draft South Derbyshire Local Environment Policy 3 and Community facilities Policy 7.*

The main issues in the case were; the effect of the proposal on the character and appearance of the area; and the effect or perceived effect on the health and well being of persons living in the locality.

The Inspector considered the proposed monopole mast to be one of the least intrusive types. He noted that it would be seen against a backcloth of trees and the equipment cabinet would be screened. He referred to the appellant's efforts to find alternative sites and was satisfied with the outcome in this regard. He saw the land as being urban fringe rather than truly rural. Overall the inspector felt that the mast would cause limited harm but that it had been designed to minimise its impact and was thus in accord with the development plan and acceptable in terms of its effect on the character and appearance of the area.

On the health issue he referred to the Stewart Report and PPG8. Whilst acknowledging that fear of danger can be a material consideration the inspector saw no reason to depart from the advice in the guidance on health issues, which is based on the Stewart Report.

He saw no evidence that the development would prejudice wildlife interests or the future use of the area for recreation.

He imposed conditions relating to landscaping and the colour of the mast. The landscaping scheme has been approved and a grey painted finish to the mast agreed, this being a recessive and unobtrusive colour, to minimise the visual impact of the mast. He also requires the mast to be removed if it becomes redundant.

23/03/2004

**Item** 1.1**Reg. No.** 9 2003 1460 F**Applicant:**

Stubbrook Developments  
C/O Ellastone Old House  
Ellastone  
Ashbourne  
Derbyshire  
DE62GZ

**Agent:**

Jim Chapman  
Stubbrook Developments  
C/O Ellastone Old House  
Ellastone  
Ashbourne  
Derbyshire  
DE62GZ

**Proposal:** The erection of fifteen dwellings Yew Tree Farm The Hays  
Hatton Derby**Ward:** Hatton**Valid Date:** 05/12/2003**Site Description**

The site comprises the former farmyard to Yew Tree Farm. To the north is a major drainage channel and to the west is a drainage ditch demarcated by a hedge. There are dwellings to the south and east. The site and its surroundings are at or about the same level as each other.

**Proposal**

The application has been amended since submission. It is now proposed that the site accommodates 16 dwellings and access would be from an adopted road off the turning head to The Hays. The development would be a mix of terraced and semi-detached three bedroom dwellings.

**Applicants' supporting information**

The applicant has requested that as a replacement bridge is now no longer proposed and this represents a significant saving to this Authority in terms of the flood relief works to be undertaken, then the obligation to provide £2000 per dwelling towards those works be discharged.

**Planning History**

The site has outline planning permission for residential development that is tied to a planning agreement to provide £2000 per dwelling towards flood alleviation works in the vicinity of the site. This followed a refusal of planning permission in 2001 where the Committee sought to restrict the possibility of future flooding of the village.

The site previously operated as a working farm and there were permissions in the 1980's for residential development and for the conversion of outbuildings. None of those permissions have been implemented.

### **Responses to Consultations**

The following responses relate to the second amendment made by the applicants. Responses to the last amendment will be reported to the meeting if available.

Hatton Parish Council has objected to the original proposals as the development boundary extended beyond the watercourse and that may encourage further development outside the village boundary. The density of the housing also is a cause for concern because of the potential for increased flooding. The Parish Council would need to be satisfied that the development would not exacerbate the current flooding/sewerage problems in the area.

The County Highways Authority had concerns about the initial layout, the applicant's had a subsequent meeting with the County Council and the new plan now meets the County Highways Authority concerns subject to some relatively minor technical amendments.

The Environment Agency had concerns about the proximity of the dwellings on Plots 1 and 2 to the watercourse. The latest amendments should meet those concerns but comments will be reported if available and there are no objections to the proposals subject to the conditions below.

The foul and surface water disposal details have been submitted and the final comments of Severn Trent Water are awaited.

The Council's land drainage officer has noted that the larger of the two bridges has been omitted from the scheme. Whilst there was a prospect of this bridge having to be replaced, its removal would not provide sufficient justification for the waiving of the financial contribution set out in the outline planning permission. Flow rates to the brook from the site have been agreed with the developer.

### **Responses to Publicity**

One letter was received in response to the original submission that objected because there may be a precedent set if access is allowed over the bridge; the proposed access could be hazardous off The Hays and there is concern about the surface and foul water drainage in the village. Any further comments received during the requisite period will be reported to committee.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5

Emerging Local Plan: Policy H1 and ENV 21.

### **Planning Considerations**

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

- The development plan
- The design and layout of the site and buildings
- The highway issues
- The Section 106 contribution

### **Planning Assessment**

The site lies within the built confines of a serviced village, the site has had a mixed use in the past and qualifies as brownfield for the purposes of Policy H1 of the emerging Local Plan (and therefore Planning Policy Guidance Note 3).

The site is being used to optimise the space available. 15 dwellings on 0.33 hectares represent a density of 45 dwellings to the hectare. This does have some consequences in that there are 2 dwellings that have a garden depth of only 3 metres. However, these gardens back on to the fields to the north and it is unlikely that this land would be developed.

There is a row of dwellings proposed adjacent to a bungalow on The Hays. This has a substantial row of leylandii trees along its boundary and the main habitable rooms look away from those dwellings. Thus, the occupiers should not suffer loss of privacy or substantial light. The dwellings to the south and south-west are either sufficiently far away from the flank of the proposed dwellings or they do not overlook the houses.

The houses would each have parking areas allocated to them to meet the Council's standards. In the main, the allocated parking spaces would occupy the frontage of each dwelling.

The design of the dwellings is generally acceptable, but there is an element of exposed wood in the gables. This would be incongruous in terms of the local vernacular. The applicants are also proposing materials that would match the existing buildings around the site. This would not be appropriate, as this site should stand in its own right as a modern development with its own character. A condition declining the materials is recommended.

The current Section 106 Agreement (as agreed under the existing outline permission) requires a contribution of £2000 per dwelling towards the flood alleviation scheme. The applicants originally proposed that they demolish and reconstruct a bridge from the site into the fields on the north of the site. This would have reduced the amount of money spent by the Council meaning that more could have been spent on the rest of the scheme. However, the bridge no longer forms a part of the proposals and the applicants would therefore be only faced with the cost of removing the existing bridge. There would still be a saving to the Authority in carrying out the drainage scheme, as the structure would not be rebuilt and these monies can be reallocated to other infrastructure costs associated with the scheme.

In the light of this, the developer's request for a release from the 106 Agreement can be accepted and the Committee is recommended to resolve to this effect. In view of this, there is no need to require a fresh Agreement under the auspices of this application if Members choose to grant planning permission.

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

## Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the submitted details, the gable ends of the dwellings shall be constructed solely in brick and there shall be no exposed timber. For the avoidance of doubt, the verges and eaves shall be constructed in brick, upper floor windows shall be located under the eaves and window and doors on the ground floor shall be provided with arched heads rather than the soldier course indicated on the submitted drawings.
2. Reason: In the interests of the appearance of the area and to reflect the vernacular of the locality generally.
3. Notwithstanding the submitted details, no part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
3. Reason: To safeguard the appearance of the existing building and the locality generally.
4. Notwithstanding the originally submitted details, this permission shall relate to the following drawing nos. SBD/1C; /4A/1 & 2; /5A; /6; /7; /8 and /9.
4. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
5. 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.
5. Reason: In the interests of the appearance of the area.
6. 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.
6. Reason: In the interests of the appearance of the area.
7. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms three cars, in any other case two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces (in the case of dwellings with four or more bedrooms) or two parking spaces (in any other case), measuring a minimum of 2.4m x 4.8m, shall be



retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

7. Reason: To ensure that adequate parking/garaging provision is available.
  
8. Before any other operations are commenced, a temporary access shall be formed into the site for construction purposes, and space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives and visitor's vehicles, loading and unloading of goods vehicles, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.
  
8. Reason: In the interests of highway safety.
  
9. No work shall take place on the site until an adequate site investigation and assessment of contamination and the measures to be taken to avoid risk to people or the environment has been undertaken and submitted to the Local Planning Authority, and the development shall incorporate any measures shown in that assessment to be necessary for the removal or containment of any contaminated material when the site is developed.
  
9. 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.
  
10. No dwellings shall be occupied until the proposed estate street has been laid out in accordance with the application drawings (as amended), to conform with the County Council's Roads in Housing design guide, and constructed to at least base course level, drained and lit in accordance with the County Council's Specification for Housing Development Roads.
  
10. Reason: In the interests of highway safety.
  
11. Notwithstanding the details on Drawing SBD1/C the bend at the turning head of The Hays shall be provided with a 10 metre centreline radius.
  
11. Reason: In the interests of highway safety.
  
12. The intermediate radius from the cul de sac at Plot 9 shall be provided with a similar radius as required at Condition 11 above and the parking spaces to plot 2B shall be provided with a splayed entry.
  
12. Reason: In the interests of highway safety.
  
13. Before occupation of the first dwelling, a scheme for disposal of highway surface water shall be carried out in accordance with a scheme first submitted to and approved by the Local Planning Authority in writing.
  
13. Reason: In the interests of highway safety.
  
14. Before any operations commence involving the movement of materials in bulk to or from the site, facilities must be provided and used to prevent the deposition of mud or extraneous material on the public highway.
  
14. Reason: In the interests of highway safety.

Informatives:

Pursuant to Section 184 of the Highways Act, at least six weeks prior notice shall be given to the County Council's Area Manager South East before commencement of works within highway limits for the construction of the access into the site.

Pursuant to Section 184 of the Highways Act, at least six weeks prior notice shall be given to the County Council's Area Manager South East before commencement of works within highway limits for the construction of the access into the site.

The structural design of any retaining walls or supporting structures adjacent and supporting the highway must be submitted to and approved by the Highway Authority. Such structures will become part of the maintainable highway and are subject to a commuted sum to cover the cost of future maintenance.

**Item** 1.5

**Reg. No.** 9 2003 1503 TP

**Applicant:**

Donald Ward Ltd  
Rawdon Works  
Moir Road  
Woodville  
Derbyshire  
DE118DG

**Agent:**

Donald Ward Ltd  
Rawdon Works  
Moir Road  
Woodville  
Derbyshire  
DE118DG

**Proposal:** Removal of four trees closest to the north side of the building addressed as 8 Moira Road covered by South Derbyshire District Council Tree Preservation Order Number 217 at 8 Moira Road Woodville Swadlincote

**Ward:** Woodville

**Valid Date:** 15/12/2003

**Site Description**

This line of six leylandii trees and one hawthorn are on the west side of Moira Road on the south side of the entrance to Donald Wards scrap yard.

**Proposal**

The trees are subject to a tree preservation order made under the emergency procedures in November 2003. The reason given for making the order is that the trees provide an all season partial screen to the scrapyards when viewed from the public highway and residential properties on Moira Road.

It is proposed to fell four trees closest to the applicant's office building.

**Applicants' supporting information**

A Chartered Engineers report was submitted with the application, which concludes that:

The significant cracking present at the north corner is undoubtedly caused by subsidence of the foundation. The cracking is recent, progressive and accelerating. The strongest possible cause of the subsidence is the presence and action of the adjacent cypress trees, which may still be growing, and require considerable amounts of root water for survival.

Coupled with the last very dry summer and the fact that the area is elevated above the surrounding area, there is a strong possibility that the soil under the foundation has become partially desiccated by the roots of these trees. The presence of clay soil exacerbates the

situation, as it is highly susceptible to shrinkage during the drying out process. Such shrinkage would cause the foundation to subside.

It is recommended that as a precautionary measure against further damage to the property and possible structural problems, all trees within a radius of their fully grown height be removed as soon as possible.

### **Responses to Consultations**

The Council's arboriculturist considers that removal is reasonable, as Leyland Cypress is a high water demanding species. 15 to 20 metres from the building is a more appropriate distance on heavy clay for this vigorous species. The land is very 'industrially disturbed' and there are many reasons other than these relatively small trees why cracking is occurring. He does not consider it wise, however, to ignore the request to take out four conifers only four metres from the building. He recommends that the trees are replaced by 3 tall evergreen shrubs, Cotoneaster Cornubia (3 litre pots) and 1 Picea Omorika (Serbian spruce) (10litre pot, 800mm tall). This evergreen planting will not be nearly so water demanding as Leylandii. In the future it may be better to replace all the Leylandii and use Serbian spruce as a replacement.

A letter of objection has been received signed by Ward Councillors S Taylor and G Isham, as follows:

Our principle reason for objection is to safeguard the amenity value of these trees, in their current established form they offer considerable benefit to the community.

Prior to the occupation of this former domestic property by Donald Ward Ltd, the surrounding trees contributed greatly to mitigating the adverse effects of the business undertaken at this location. Following the inclusion of this property into the business a significant number of trees were removed. This has had a quite detrimental effect on the amenity of the street scene, and local residents.

The few remaining trees retain some element of protection to the amenity of immediate community. They screen the site, and also give protection from the direct effects of noise. Their removal would change the profile of the streetscape. This is particularly apparent on the approach towards Woodville Tollgate.

Woodville Parish Council objects to the proposal stating that they are of value to the community as this is a very noisy site and the trees act as a sound barrier.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Environment Policy 16.

Adopted Local Plan: Environment Policy 9.

Draft Local Plan: ENV3.

### **Planning Considerations**

The main issue central to the determination of this application is whether the damage to the building allegedly caused by the trees is sufficient justification to have them removed.

## Planning Assessment

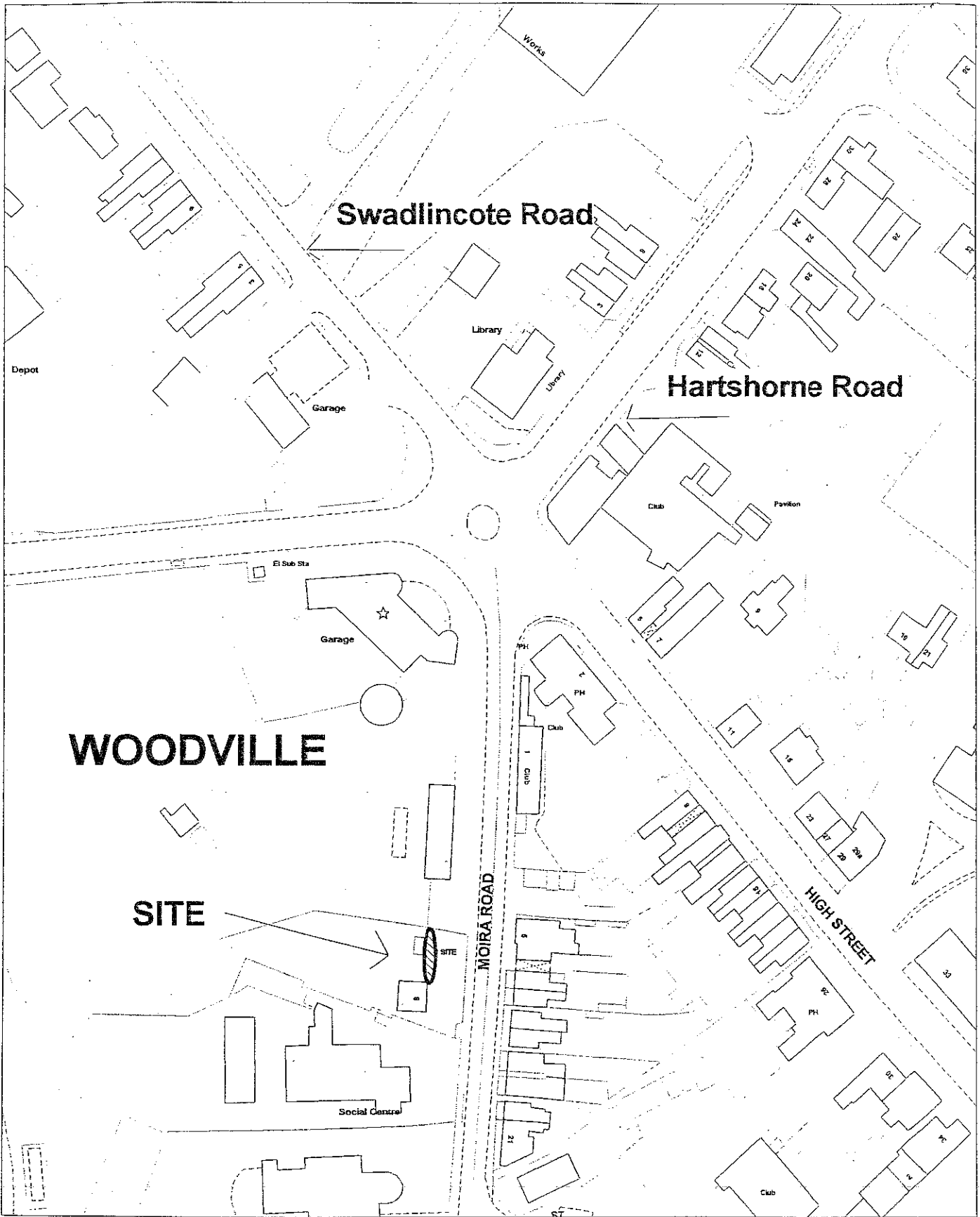
The chartered engineers report concludes that in all likelihood it is the trees that are causing damage to the building and the Council's tree specialist agrees with this on the basis that the trees are high water demanding on shrinkable clay following a very dry summer. On this basis it would therefore be expedient to remove the trees. Refusal to fell could result in a claim for compensation against the Council for any further damage caused by the trees after the issuing of the refusal notice.


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

## Recommendation

GRANT permission subject to the following conditions:

1. The work hereby approved shall be carried out within two years of the date of this consent.
1. Reason: To enable the LPA to assess future proposals should this work not be implemented.
2. No works to any trees shall be carried out until the local planning authority has approved in writing full details (including location, species and size of planting) of every tree and shrub to be planted by way of replacement for those to be felled under the terms of this consent, including its proposed location, its species, its size at the date of planting, and the approximate date when it is to be planted
2. Reason: To ensure replacement planting is provided to safeguard the amenities of the area.
3. Trees and shrubs shall be planted in accordance with the details approved by the Council under Condition 2.
3. Reason: To safeguard the amenities of the area.
4. If within a period of two years from the completion of the planting any of the trees or shrubs planted in accordance with condition 3, or any tree or shrub planted as a replacement of any of those trees or shrubs, is cut down, felled, uprooted, removed or destroyed or dies or becomes on the opinion of the Local Planning Authority, seriously damaged or defective, a replacement shall be planted of the same specification and species as that lost.
  - (a) the local planning authority shall be notified as soon as reasonably possible,
  - (b) another tree or shrub of the same species shall be planted at the same location, at a time to be agreed in writing unless the local planning authority agrees in writing to dispense with or vary the requirement.
4. Reason: To provide for replacement planting if necessary in the interests of safeguarding the amenities of the area.



 <p>South Derbyshire District Council Civic Offices Civic Way Swadlincote DE11 0AH</p>		Date Plotted 12/3/2004	NORTH ↑
	<p>Donal Ward Ltd Moira Rd Woodville 9/2003/1503/TP</p>	Plot centred at 428536 325343	Scale 1:1250
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