

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

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

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

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

Item 1.1

Reg. No. 9/2007/1463/FX

Applicant:

Mr Jay McDonagh
Aardvark Property Developments Ltd
Vernon House
Vernon Street
Derby
DE1 1FR

Agent:

Miss Alexandra Woodley
Peter Eaton & Associates
32 Royal Scot Road
Pride Park
Derby
DE24 8AJ

Proposal: The demolition of the existing house and the erection of 7 terrace houses with garages at 11A Dale End Road Hilton Derby

Ward: Hilton

Valid Date: 03/01/2008

Reason for committee determination

Councillor Plenderleith has requested that the application be brought before the Committee as local concern has been expressed about a particular issue.

Site Description

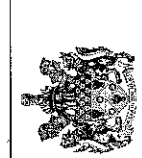
The site comprises the house and its garden. The site is level but slightly higher than the level of Dale End Road. There is a private drive at the north end of the site that provides access to two dwellings at the rear of 11A; these have habitable room windows looking towards the site. Beyond the access is a detached dwelling set well back from Dale End Road. Immediately to the south of the site is a row of 2½ storey dwellings that occupy land formerly part of Hilton Garage. The beer garden and car park to a public house lie to the east of the site along with a row of detached dwellings that lies on the opposite side of Dale End Road. A line of poplar trees occupies the south boundary of the site.

Proposal

The application to demolish the existing house and erect 7 terraced houses with garages has been amended since submission to move the dwellings towards the carriageway edge on Dale End Road, as will be shown on the illustrations at Committee. The dwellings would be serviced from the rear and the area above the parking bay for each dwelling would have a raised patio. The main living rooms in each dwelling are at first floor level with two bedrooms in the roof and a kitchen and utility provided at ground floor level. Some of the poplar trees on the south boundary would be felled to allow the development were planning permission granted.

9/2007/1463/FX 11a Dale End Road

Hilton



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Applicants' supporting information

The applicants state that the existing house is in need of major works on its fabric and retaining it within a development site would be difficult and so a redevelopment of the site is proposed. The site is located within a well-established neighbourhood with a broad range of facilities within a 10-minute walk of the site. Public transport is available along Main Street only 100 metres from the site.

Seven x 2½-storey dwellings are proposed that would provide similar living accommodation to other properties in the vicinity; they would be constructed in red brick under a grey tile roof. The layout of the site reflects the arrangements of the dwellings immediately to the south; the site would have a vehicle access at its north end, where the access to the dwellings on Dale Orchard is located. A first floor outdoor living area is proposed and planting is proposed on the west end of this area to screen the living area from/to the adjacent dwellings.

Planning History

There is no recent planning history for this site, the last major application in the grounds of Dale House was for the erection of 1 & 2 Dale Orchard in the early 1980's.

Responses to Consultations

Hilton Parish Council has no objection to the development but has concerns about the parking aspects of the development and the development should be provided with sufficient parking space to ensure that parking does not occur on Dale End Road. The Parish Council has also requested contributions towards rectifying the traffic calming (see comments below) and towards improved recreation provision as well as additional recycling provision in the village.

The County Highway Authority has no objection to the amended scheme subject to the imposition of conditions.

The Environmental Protection Manager requires contaminated land investigations prior to the development of the land. Conditions are recommended. It is also recommended that conditions be imposed to control the hours of building operations to protect the amenities of neighbours during the periods when building operations are not permitted.

Responses to Publicity

The proposals have been amended since submission, the consultation period expires before the Committee meets and any additional comments in response to the amended scheme will be reported at the meeting.

A total of 5 items of correspondence from three households have been received in response to the originally submitted scheme: -

- a) Extra traffic will be generated as a result of the development.
- b) Access to the dwellings on Dale Orchard would be reduced with cars parking on Dale End Road

- c) The loss of the original dwelling would detract from the character of the area.
- d) The development would adversely affect the private amenity of the adjacent occupiers of dwellings with some 14 windows looking towards these houses.
- e) There would be a loss of outlook from the existing dwellings and lights and structures would detract from residential amenity of existing occupiers.
- f) Three new ones would replace the trees that would be lost and this combined with the new buildings would block out a lot of light.

Development Plan Policies

The relevant policies are:

RSS8: Policies 2 & 3

Local Plan: Housing Policy 5

Planning Considerations

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

- The Development Plan
- The requirement for Infrastructure Contributions
- The requirements of Consultees
- The impact on neighbours

Planning Assessment

Given that the application is for 7 dwellings the development triggers a requirement to ask for financial contributions towards the provision of off site open space, education and health contributions. Consultations have been sent to the Local Councillors, health and education offices to seek information on the need for these contributions. Any responses not already received will be reported at the meeting.

The development would comply with the requirements of the Development Plan policies referred to above. Whilst there would be a loss of a character property, it is not of particular historic or architectural quality, the new dwellings would make better use of previously developed land.

The design of the dwellings has been amended considerably since submission to reflect the comments of our Urban Designer – the dwellings are now to be accessed from the rear. This has allowed the dwellings to be brought forward towards the carriageway edge and has removed large garage doors from the main elevation to produce a design of a more human scale. The arrangement of the dwellings would also more closely match those of the adjacent dwellings and reduce the amount of overlap against those dwellings.

Councillor Mrs Plenderleith sought additional contributions towards rectifying the traffic calming measures on Main Street. However, rectification arises from previous mistakes and the responsibility for rectifying this should rest with the contractors/County Highway

Authority and it would be unreasonable to impose this cost on the developers of this site a point accepted by Councillor Plenderleith.

A contribution towards off-site open space is triggered by the development – this would amount to £715/person where one bedroom = 1 person (21 x £715 = £15,015); the Education Authority has requested primary and secondary education contributions totalling £28,267.92. A response is awaited from Primary Care Trust but if a contribution is requested it would amount to £3857.

The requirements of the consultees can be addressed through the imposition of planning conditions and those recommended below reflect those requirements.

For the purposes of assessing the impact of this development on neighbours, the patio area above the parking bay for each dwelling has been treated as a main habitable room. The main living accommodation including patios is at first floor level and the minimum separation distances have been increased in accordance with the requirements of adopted Supplementary Planning Guidance – Housing Layout and Design.

The amended layout and design have produced a pleasing layout that takes account of the position and arrangement of windows in neighbouring dwellings. The most direct impact is on the dwellings on the opposite side of Dale End Road and those on Dale Orchard.

The minimum separation distance between habitable-room windows are more than met by the layout. However, it is not clear that the raised patio areas would meet the standards in all cases. However, it would be possible to set the railings back from the edge of the patio to ensure that any views towards the existing houses are at a distance that meets the standard and a condition to this effect is recommended.

The new dwellings front to Dale End Road and, in the main, overlook the car park and garden of The Kings Head public house. However, Nos 2 & 4 Dale End Road would have more windows looking towards the houses than is the case currently. Dale House has windows looking towards these other houses and the new houses would be set slightly further away from 2 & 4. The minimum separation distance for the proposed bedroom and kitchens to the neighbouring dwellings is 18 and 15 metres respectively. The distances achieved are 15 metres but the Housing Layout and Design document states that the guidelines may be relaxed where there is an intervening roadway having regard to the overall character of the surrounding area. The proposed layout is considered to be in keeping with the general character of the area.

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

Recommendation

Subject to the receipt of a signed unilateral undertaking for the provision of open space monies, and contributions towards health and education **GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 11820-01 Rev C, 02 Rev C & 03 Rev A received on 10 March 2008.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Building operations to construct the dwellings hereby permitted shall not take place outside the following times 0800 -1800 Monday to Friday and 0800 to 1200 on Saturdays there shall be no operations of Sundays or bank and public holidays.
Reason: To ensure that the building operations do not prejudice the enjoyment by neighbouring occupiers of their properties.
4. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.
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.
5. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
B) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
C) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets

the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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.

6. Before any other operations are commenced excluding demolition and site clearance, a temporary access shall be formed to Dale End Road, laid out and constructed and provided with visibility sight lines in either direction in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Prior to the access being taken into use, the area in advance of the sightlines shall be cleared of all obstructions greater than 1.0 metre in height (0.6m in the case of vegetation) and thereafter the access and visibility sightlines shall be maintained in accordance with the approved drawings throughout the construction period.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

8. Throughout the period of construction, wheelwash facilities shall be provided within the site and used to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interests of highway safety.

9. Prior to the first occupation of any dwelling on the site, a new vehicular access to Dale End Road shall be created to Dale End Road. Notwithstanding the submitted drawings, the access shall be constructed in the form of a vehicular footway crossing unless otherwise agreed in writing by the Local Planning Authority. The first 10 metres of the access measured from the nearside carriageway edge from Dale End Road shall be surfaced with a solid bound material at a gradient not exceeding 1 in 15 and measures shall be implemented to prevent surface water draining from the site onto the highway.

Reason: In the interests of highway safety.

10. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of each dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, 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.

Reason: To ensure that adequate parking/garaging provision is available.

11. Prior to the first occupation of any dwelling on the site, or such other time as may be agreed in writing with the Local Planning Authority, a footway shall be constructed along the Dale End Frontage of the site. The footway shall be

generally in accord with the submitted plan but more specifically in accordance with design and construction details first submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority.

Reason: In the interests of highway safety.

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

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

13. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

14. 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.

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

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

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

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

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

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

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

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, there shall be no external alterations, including the insertion of new windows, to the buildings other than as approved under this permission.

Reason: In the interests of preserving the setting of the building and the character of the area.

19. Notwithstanding the submitted details, precise details for the location of the railing on the outdoor living areas shall be submitted to and approved in writing by the Local Planning Authority. The railing shall then be erected in the positions shown on the approved plan together with any screen details as may be necessary to prevent overlooking of adjacent dwellings and shall thereafter be maintained in the approved positions.

Reason: In order to ensure that existing dwellings are not overlooked by any person making use of the outdoor living area

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

Pursuant to Section 163 of the Highways Act 1980, where a site curtilage slopes down to the public highway, measures shall be taken to ensure that surface water run-off from the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soak away within the site.

Sections 149 and 151 of the Highways Act 1980, require the applicant must take all reasonable steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicants/developers responsibility to ensure that action is taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new footway shall be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, legal and administrative processes involved in achieving adoption of the new footway may be obtained from the Department of Environmental Services at County Hall, Matlock, Derbyshire DE4 3AG (tel: 01629 580000 and ask for Development Control South-East).

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: dan.calverley@south-derbys.gov.uk.

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

- whether the land in question is already affected by contamination through source - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

Item 1.2

Reg. No. 9/2008/0088/F

Applicant:

Mr Mrs J C Renwick
Repton
Derby
DE65 6FZ

Agent:

Renwick Homes Ltd
Unit 2 Lyndon Farm Workshops
Lyndon
Oakham
Rutland
LE15 8TY

Proposal: Approval of reserved matters of application
9/2005/0793/O for the erection of a detached dwelling
and garage on Plot 2 Land To The Rear Of Warren
House 16 Milton Road Repton Derby

Ward: Repton

Valid Date: 25/01/2008

Reason for committee determination

Councillor Bladen has requested that the application is brought before the Committee because local concern has been expressed about a particular issue.

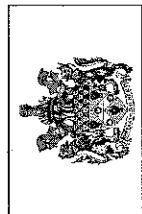
Site Description

The site is located in the large rear garden of a detached dwelling within Repton. The site is to the south of a newly constructed dwelling, both plots received outline consent in 2005. The western end of the plot is within the floodplain of Repton Brook but the footprint of the proposed dwelling itself is outside the floodplain. Trees, including leylandii, mark the boundary with the brook. Bungalows fronting Ascot Grove are located to the south of the site. The bungalows have main windows to the rear and old railings and a hedge mark the boundary between the bungalows and the site.

Proposal

The application is a reserved matters submission for approval of siting, design, external appearance and landscaping for a detached dwelling. The means of access was approved at the outline stage. The proposed dwelling is a large two storey L-shaped property with an attached double garage on the southern elevation, similar in design and external appearance to the dwelling, which has recently been constructed on Plot 1. An amended plan has been received such that the proposed dwelling has been moved 2 metres from the boundary with the bungalows to the south of the site.

9/2008/0088/F Plot 2
Land to the rear of Warren House
16 Milton Road
Repton



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Applicants' supporting information

None received.

Planning History

9/2005/0793 - outline consent for two dwellings.

9/2006/0941 – reserved matters approval for dwelling on Plot 1.

Responses to Consultations

County Highway Authority has no objections on the basis that access was dealt with at outline stage.

Severn Trent Water has no objections.

Environmental Health recommend a contaminated land condition however this is a reserved matters submission and such a condition should have been applied at outline stage.

Repton Parish Council objects to the plan because the planned dwelling is far too close to neighbouring houses – this objection was received prior to amended plans being submitted moving the dwelling 2 metres from the boundary.

Responses to Publicity

Six letters of representation have been received (including two to the amended plan one of which was satisfied that overlooking had been satisfied) from the occupiers of three neighbouring dwellings raising the following concerns:-

- Vehicle headlights will be intrusive to the rear of bungalows fronting Askew Grove, the construction of a wall on the boundary would mitigate against this.
- The dwelling is far too dominant for the site and in relation to the surrounding properties; the dwelling that has been constructed shows this. The new dwelling will totally overshadow and overwhelm the adjoining bungalows and result in loss of privacy, even though the siting has been moved away from the fence.
- The infrastructure in Repton will not have the capacity to cope with demand from all the new housing.
- The village is increasingly flooded due to the land being covered by impermeable materials resulting in the run off water overloading the flow rate capacity adjacent to the brook.
- Another dwelling will add extra traffic onto a corner of an already busy road.
- There is a problem with surface water drainage here as, at this time, there is a large area of standing which has been present for several weeks.
- The dwelling is out of character with adjoining properties due to its scale.
- The gardens to the bungalows are shallow and the dwelling will tower over the bungalows, no windows should face the bungalows.

Development Plan Policies

The relevant policies are:

Planning Considerations

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

- The design and appearance of the dwelling in relation to its setting.
- Impact on neighbouring residents.

Planning Assessment

Outline consent has already been granted for residential development of the plot, the access was approved at outline stage and a flood risk assessment was submitted and the proposals found to be acceptable. Conditions on the outline approval must be complied with, these include a condition requiring boundary treatment details.

The properties fronting Milton Road in the vicinity of the site have large rear gardens giving a sense of openness adjacent to this side of Repton Brook, which is in contrast to the relatively high density development on Askew Grove. The proposed dwelling is very similar in design and scale to that which has recently been constructed on Plot 1 and reflects the scale and style of larger properties fronting Milton Road. The dwelling would be set within a spacious curtilage that would provide an appropriate setting to a dwelling of this size and retain some of the characteristic openness of the immediate area.

The amended plans show the main two storey section of the proposed dwelling 18 metres from the windows on the rear elevations of the nearest bungalows fronting Askew Grove. The single storey garage attached to the proposed house would be just under 12 metres from the nearest windows. There are no windows proposed on the side elevation of the house which would face the existing bungalows. The proposal would comply with the space about dwellings standards outlined in the SPG on Housing Design and Layout which requires a distance of 9 metres between an existing dwelling and a single storey structure and 12 metres between an existing dwelling and a two storey structure.

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.

Informatives:

To note that all conditions on outline approval reference 9/2005/0793/O must be complied with.

01/04/2008

Item 1.3

Reg. No. 9/2008/0097/FH

Applicant:

Me Kevin Klym
The Wharf
Shardlow
Derby
DE72 2GH

Agent:

M J Harrison
7 Hall Park
Barrow On Trent
Derby
Derbyshire
DE73 7HD

Proposal: Alterations and extensions including increase in roof height at 33A The Wharf Shardlow Derby

Ward: Aston

Valid Date: 29/01/2008

Reason for committee determination

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

Site Description

The application site is a detached bungalow situated within a large plot of land on the edge of Shardlow Conservation Area. The surrounding residential properties are two-storey and mixed in character.

Proposal

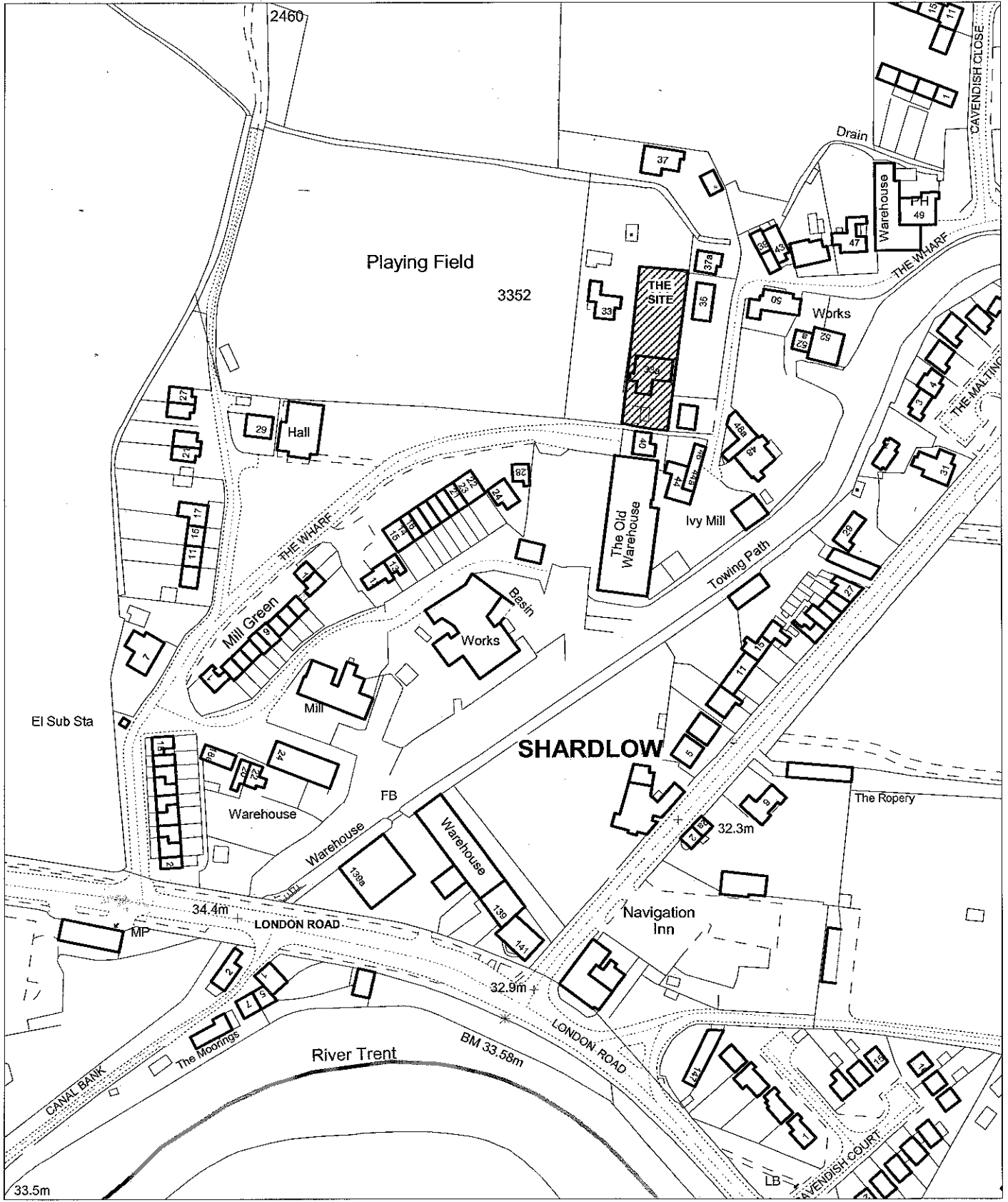
The proposal is to extend the existing bungalow to the rear and side and increase the ridge height by 4m to allow for first floor accommodation with a cat slide roof sloping down at the rear.


Applicants' supporting information

The applicant has had pre-application discussions with the Planning Officer and Design and Conservation Officer prior to submitting the application.

Planning History

The property has previously been extended at single storey on either side.



 South Derbyshire District Council Civic Offices Civic Way Swadlincote DE11 0AH		Date Plotted 19/3/2008	NORTH ↑
	9/2008/0097/FH 33a The Wharf Shardlow	Plot centred at 430317 320704	Scale 1:2000
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Responses to Consultations

The Parish Council is concerned that the impact on the neighbouring properties will be considerable.

The Design and Conservation Officer has no objections subject to the removal of the rooflights on the north elevation and conditions relating to boundary treatments and the use of plain glazing throughout with the exception of obscure glazing as required.

Responses to Publicity

Three letters of objection have been received raising the following comments:

- The application makes it sound like a modest addition but in reality it is the total replacement of the bungalow.
- The size of the development would be detrimental to the open aspect of the area.
- Overlooking and loss of privacy.
- Surface water drainage will go into a ditch running between 33a and 35 The Wharf which is not part of a formal drainage system bringing responsibility of maintenance to others.
- Access to the property is gained across a neighbouring drive. In view of the number of vehicles at No 33a it would be safer to have a dedicated entrance off The Wharf.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policy 12 and Housing Policy 13

Planning Considerations

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

- The impact on the amenity of the neighbouring properties.
- The impact on the character of the Conservation Area.

Planning Assessment

No 33a The Wharf is situated on a long plot of land with a rear garden of some 30m in length. The neighbouring property, No 33 The Wharf, is a two-storey dwelling situated to the northwest of the application site with main windows to both the front and side of the property facing towards the site. The application property as extended would be situated some 12.5m distance from this neighbouring property at its nearest point. An existing boundary hedge obscures views between the ground floor windows of these two properties. The proposed first floor velux windows to the rear of the application property will be omitted preventing any overlooking from first floor level. The existing first floor bedroom window of No 33 The Wharf falls below the minimum distance requirement of 15m to a section of the proposed dining room to the rear of the application property. A condition to obscure glaze this section of window will overcome this problem. The proposal complies with the Council's minimum distance requirements

with regards to overlooking and overbearance from the application property to this neighbouring property.

No 35 The Wharf is a two-storey dwelling situated to the northeast of the application site with main windows to both the front and side of the property including a side conservatory facing towards the application site. The proposed extension meets the Council's minimum distance requirements with regard to overlooking and overbearance to and from these neighbouring windows. Part of the existing boundary fence between the application site and this neighbouring property will be removed as part of the extension but a condition requiring the submission of boundary details will ensure that overlooking between ground floor windows is prevented between the two properties.

Whilst the proposal represents a significant increase in the ridge height of the existing property the long slope of the cat-slide roof to the rear of the property will reduce the overall impact to these neighbouring properties at the rear of the site.

The scale of the proposal is in keeping with the surrounding properties and there is no material adverse impact on the neighbouring properties surrounding the site. The proposal complies with the requirements of Housing Policy 13 of the Local Plan and the Council's Supplementary Planning Guidance and is considered acceptable.

The application site is situated on the edge of Shardlow Conservation Area. The submitted application follows on from pre-application discussions with the Design and Conservation Officer and the Council's Urban Designer and is as discussed with the exception of a few minor alterations. The existing bungalow is plain in appearance and makes little contribution to the character of the surrounding area. The proposed alterations would improve the character of the property and enhance the character of the adjacent Conservation Area.

There are no alterations to the existing access proposed as part of this application.

The issue of surface water drainage is not a material planning consideration.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. Notwithstanding the 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. The development shall be carried out in accordance with the approved drawings.

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

3. Large scale drawings to a minimum Scale of 1:10 of eaves, verges, chimney stacks, corbelled entrance brickwork, chimney stacks and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

4. Notwithstanding the submitted details, revised details of the lintel over the principle entrance shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

6. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

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.

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

8. Pointing of the proposed building shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".

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

9. A sample panel of pointed brickwork 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority before the work is generally executed.

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

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be

altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

11. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), 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 (including railings) to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

12. All boundary walls shall have a traditional style of shaped clay or stone coping the details including a sample of which shall have been previously agreed in writing by the Local Planning Authority.

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

13. Notwithstanding the submitted details, the two bedroom rooflights on the north elevation shall be omitted.

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

14. The bathroom rooflight and right hand panel of the dining room window north elevation of the building shall be permanently glazed in obscure glass.

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

15. With the exception of the windows detailed in Condition 14 above all windows shall be plain glazed unless previously agreed in writing by the Local Planning Authority.

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

16. Prior to the commencement of the development hereby permitted the applicant shall confirm in writing to the Local Planning Authority, as a minimum, that:

(1) Floor levels within the proposed development will be set no lower than existing levels AND,

(2) Flood proofing of the proposed development has been considered by the applicant and incorporated where appropriate.

Reason: In the interests of flood protection.

17. Notwithstanding any details submitted, the precise type and size of the proposed bathroom rooflight shall be submitted to and approved in writing by Local Planning Authority. The approved rooflight shall be fitted such that the outer face

is flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

Informatives:

In the event that condition 16 is insufficient and floor levels within the extension must be set 300mm above the known or modelled 1 in 100 year (annual probability 1% chance) river flood level or 1 in 200 year (annual probability 0.5% chance) tidal & coastal flood level (which has been demonstrated by a plan to Ordnance Datum/GPS showing finished floor levels relative to the known or modelled flood level), it is likely that a further planning permission would be required.

01/04/2008

Item **1.4**

Reg. No. **9/2008/0166/FH**

Applicant:
Mr F R Hood
4 Barn Close
Findern
Derby
DE656QR

Agent:
Mr F R Hood
4 Barn Close
Findern
Derby
DE656QR

Proposal: **The conversion of the garage into living accommodation and the erection of an attached double garage at 4 Barn Close Findern Derby**

Ward: **Willington & Findern**

Valid Date: **11/02/2008**

Reason for committee determination

The applicant is a close relative of a Councillor.

Site Description

The property is a detached dwelling situated on a corner plot within the built up, predominantly residential, area of Findern.

Proposal

The application proposes to erect an attached garage to the south of the property and also to convert the integral garage to a dining room.

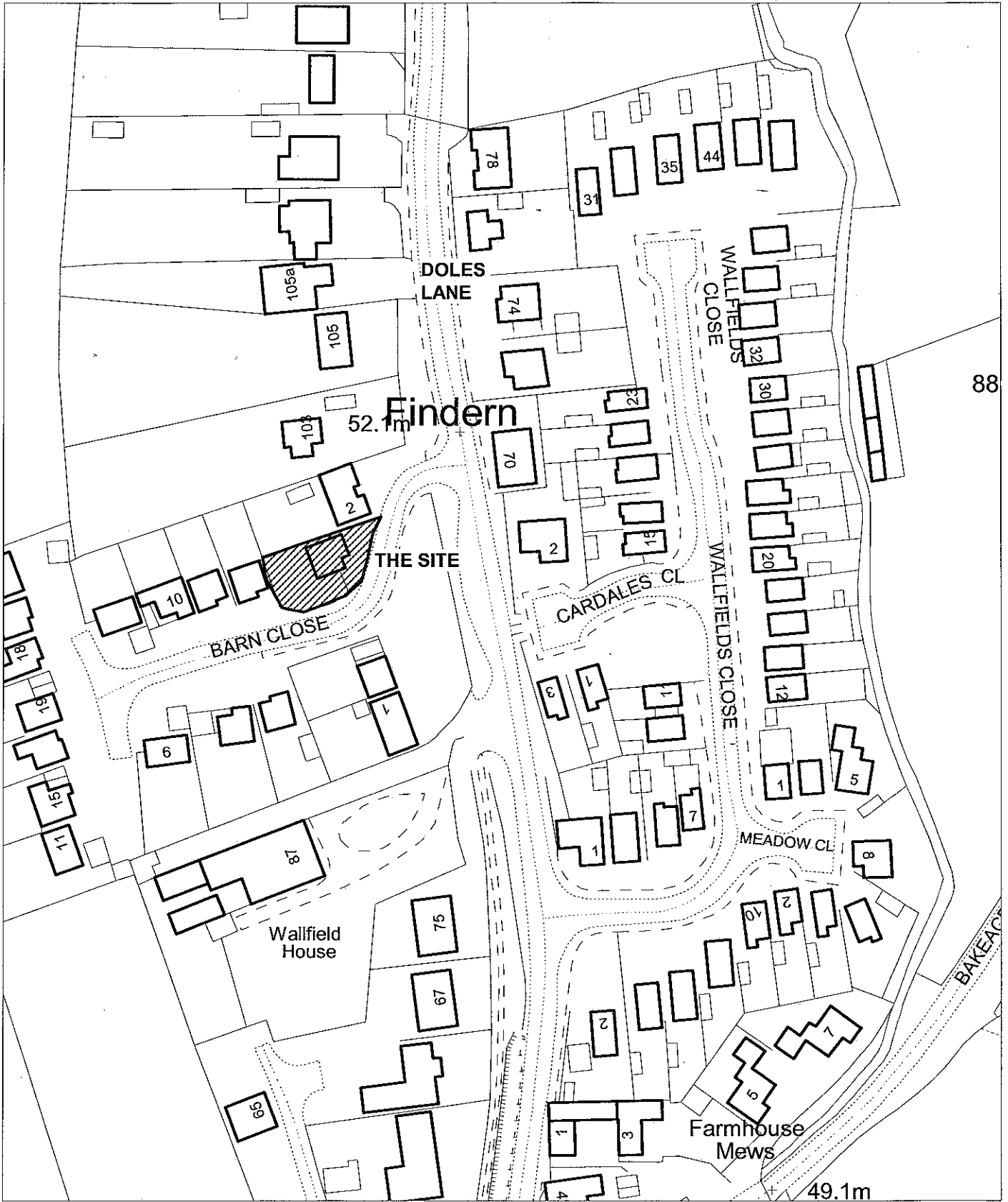
Applicants' supporting information

Non-provided

Planning History

An application was submitted under planning reference 9/0595/094 and approved in 1995 for the erection of a garage and the conversion of the integral garage.

This application was submitted for renewal under planning reference 9/2000/0640 and approved in 2000.



South Derbyshire
District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

9/2008/0166/FH 4 Barn Close
Findern

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Date Plotted 19/3/2008

NORTH ↑

Plot centred at 430317 320704

Scale 1:1250

Responses to Consultations

There have been no responses.

Responses to Publicity

There have been no responses.

Development Plan Policies

The relevant policies are:
Local Plan: Housing Policy 13

Planning Considerations

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

- The appearance of the proposal in context with the original dwelling and the surrounding area.
- The effect that the proposal would have upon the amenities of neighbouring properties.

Planning Assessment

The proposal is of an acceptable design that would be in keeping with the existing property and the surrounding area.

The amenities of neighbouring properties are not adversely affected.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.

Informatives:

Access should be via the existing vehicle crossing only unless otherwise agreed with the Local Planning Authority in consultation with the County Highway Authority.

Item 2.1

Reg. No. 9/2007/1292/F

Applicant:

Mr & Mrs P McDermott
Dalston Road
Newhall
Swadlincote
Derbyshire
DE11 0QG

Agent:

C A Collins
14 Sunnyside
Newhall
Swadlincote
Derbyshire
DE11 0TJ

Proposal: **The erection of a detached dwelling on the Garden of 16
Dalston Road Newhall Swadlincote**

Ward: **Newhall**

Valid Date: **05/11/2007**

Reason for committee determination

Councillor Richards has requested that the application is brought before the Committee for the following reasons: the Committee should debate the issues in this case which are very finely balanced; the original application was refused with incorrect information and reasons.

Councillors will remember that the application was previously reported to Committee on 11th December 2007 and 15th January 2008 where it was deferred for further discussion between the applicant and adjoining landowner to resolve the parking and turning arrangements. Everything in italics in the following report is new information.

Site Description

The site is the main garden area to 16 Dalston Road and is located to the front of the dwelling across a narrow private drive which carries the route of a public footpath. The garden is bounded by a wall to the front, a fence to the public footpath which runs down the side of the site, a wall to the adjoining dwelling and a fence to the dwellings to the rear. The garden has several sheds and a greenhouse to one side and a planting area to the other and measures between 7 and 10 metres in width and 22 metres in length.

Proposal

The application proposes the construction of a detached two-bedroom house on the garden. A small area of the garden measuring approximately 3 to 3.5 metres in width by 7 metres in length has been shown on the plan as being retained by 16 Dalston Road.

9/2007/1292/F Garden of 16 Dalston Road

Newhall



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SWADLINCOTE DE11 0AH**

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Date Plotted 30/11/2007
Scale 1:1250
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The proposed dwelling will have a driveway of 5 metres in length leading to an integral single garage. The proposed dwelling has been designed without any principle windows on the front elevation in order to comply with space about dwellings standards with respect to 16 Dalston Road. The dwelling has also been designed with no first floor windows on the rear elevation; the bedrooms are lit by roof lights only. The kitchen and lounge/dining room are located at the rear of the dwelling and therefore the main windows are located at ground floor level facing the dwellings to the rear.

Applicants' supporting information

A design and access statement submitted with the application provides information in support of the following points:

- The site is within the existing Newhall settlement boundary and is not allocated for an alternative use
- The development complies with the density requirements of PPG3
- The development has no effect on the access, parking or amenity space arrangements of any existing dwellings
- A safe access can be constructed to the plot for the proposed dwelling that is acceptable to the highway authority, and the access itself would not harm neighbours
- A dedicated access can be provided to the proposed dwelling and can be constructed to achieve the requirements of the highway authority
- There is no realistic prospect of forming a larger development site
- The site is not on the edge of the settlement and forms an infill to the existing settlement
- The proposed design would not be out of character and the design has been considered such that it would not cause a loss of privacy to adjacent properties
- The design and layout respect the character of the streetscene
- In considering the layout attention has been given to crime issues, SPG on 'Crime Reduction through Environmental Design' has been taken into account
- Local facilities are located within walking distance and there is good public transport provision in the locality
- The design has been considered to make the dwelling compliant with housing suitable for disabled people.

A letter has been received from the Applicant's Agent stating the following:-

- *A statement has been made by the Highway Authority that the width of Dalston Road adjacent to the application site is only 2 metres and too narrow however the existing width is 2.6 metres and if the wall is removed 3 metres width is achievable. 3 metres is achievable without removing the existing stone pillar.*
- *A site plan has been submitted showing the available width and the movement of a standard family car to show forward access and egress from the application site.*

A letter has been received from the Applicant stating that he has approached the adjoining landowner about removing the pillar however the landowner will not agree. There is also a letter from the adjoining landowner to this effect. The Applicant also refers to the information submitted from the Agent as detailed above.

Planning History

9/2007/0980/F was refused under delegated powers in October of this year on three grounds. Firstly, highway safety due to the inadequate width of the access resulting in inadequate parking and turning areas being provided. Secondly, loss of garden area for the existing dwelling and thirdly the siting of the dwelling resulting in a loss of privacy for existing neighbouring occupiers.

Responses to Consultations

The County Highway Authority object to the development on the grounds that the 'Manual for Streets' requires that adequate parking be provided for residential development and whilst parking is shown on the plan, the site would be impossible to access with a vehicle, due to the width of Dalston Road where it fronts the site. Furthermore, due to the lack of turning space, any driver attempting to access the site would need to reverse along the full length of Dalston Road, resulting in potential conflict with other vehicles and particularly pedestrians and be likely to manoeuvre within High Street in order to reverse to or from the junction. Such manoeuvres and the increase in on street parking would be detrimental to highway safety.

The Highway Authority has commented on the additional plan supplied by the Applicant's Agent as follows: The existing gap between the wall and the fence fronting no.16 is approx 2.6 metres and the Applicant's have stated that the wall and fence will come down leaving a width of 3.2 metres. However, this does not make any difference to previous comments about insufficient manoeuvring space or conflict with pedestrians. The old parking standards show that a parking space at 90 degrees to the road needs 6 metres manoeuvring space and some standard parking layouts indicate that 4m radii are required when providing a space to turn a vehicle; neither is available at this site.

Severn Trent Water has no objection to the proposal.

Responses to Publicity

No responses received.

Development Plan Policies

The relevant policies are:

Saved Local Plan: Transport Policy 6 and Housing Policy 11

Planning Considerations

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

- the principle of development;
- highway and pedestrian safety,
- loss of garden area for No 16 Dalston Road and
- the potential adverse impact on the privacy of the occupiers of adjoining dwellings as a result of overlooking.

Planning Assessment

The site lies on previously developed land (garden) within the urban area and therefore the principle of development is acceptable in policy terms.

The access to the site is inadequate as stated above in the consultation response from the Highway Authority. Dalston Road is a narrow private street which carries a public right of way with a public footpath extending along the full length of the road and along the side of the application site. Dalston Road is very narrow at the point where it meets the application site and although additional land exists to the front of the existing dwelling it is located at a lower level than the road/ footpath and separated from the road by a fence so could not form part of the access. The width of the available access would be such that manoeuvring into and out of the driveway and garage would be impossible, particularly in view of the garden land being retained for use by 16 Dalston Road. In addition there would be no means of turning vehicle within Dalston Road except on private land outside the control of the applicant and any vehicle accessing the site may therefore have to reverse along the road resulting in potential conflict with other vehicles and pedestrians using the public footpath.

Notwithstanding the additional plan received from the Applicant and acceptance that the width of the access is 3.2 metres adjoining Dalston Road the Highway Authority maintain their objection on the basis that there is insufficient manoeuvring space and that there will be conflict with pedestrians as the access road carries the route of a public footpath.

Most of the garden to 16 Dalston Road would be given over to the proposed development. The dwelling is two bedroom but nevertheless is considered one that would be appropriate for family accommodation and the loss of its garden would not be in the interests of good housing design as advised in PPS 3 and Housing Policy 11 and the SPG on Housing Design and Layout.

The proposed dwelling has been designed so that all the main windows are located on the rear elevation, at ground floor level. There is an existing fence on the rear boundary which measures approximately 1.5 metres in height but the dwellings to the rear are elevated above the site and despite the height of the fence there are clear views between the site and the main living room windows of the dwellings to the rear of the site. The floor level of the proposed house would be above the existing level of the site and any standard height boundary treatment would be inadequate in protecting the privacy of existing occupiers. The distance between the proposed kitchen and living room windows and the existing living room windows of the dwellings to the rear of the site is only 16 to 19 metres which is below the space about dwellings standards set out in the SPG on Housing Design and Layout. Although in many circumstances the distances between main ground floor windows can be reduced as a result of providing adequate boundary treatment, in this case the difference in levels between the site and the houses at the rear means that the existing dwellings would be overlooked and privacy would be compromised.

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

REFUSE permission for the following reasons:

1. Notwithstanding the submitted details there is inadequate manoeuvring space for vehicles wishing to enter and leave the proposed parking spaces and due to the lack of turning space, any driver attempting to access the site would probably need to reverse along the full length of Dalston Road, resulting in potential conflict with other vehicles and particularly pedestrians using the public footpath and be likely to manoeuvre within High Street in order to reverse to or from the junction. Such manoeuvres would be detrimental to highway safety and the proposal would therefore be to Transport Policy 6 of the South Derbyshire Local Plan.
2. Most of the garden to 16 Dalston Road would be given over to the proposed development. The dwelling is one that is appropriate for family accommodation, and the loss of its garden would not be in the interests of good housing design as advised in PPS3 and Housing Policy 11 of the South Derbyshire Local Plan and Supplementary Planning Guidance - Housing Design and Layout.
3. Due to the siting of the proposed development and issues of overlooking, a reasonable level of privacy would not be maintained for existing neighbouring occupiers contrary to Housing Policy 11 of the South Derbyshire Local Plan and Supplementary Planning Guidance - Housing Design and Layout.

01/04/2008

Item **2.2**

Reg. No. **9/2008/0229/F**

Applicant:
Mr R Thompson
Melbourne
Derby
DE73 8AG

Agent:
B E Wolsey
29 Chapel Street
Derby
DE73 7JY

Proposal: **The erection of a detached dwelling on Land To The West Of The Gables Main Street Ingleby**

Ward: **Repton**

Valid Date: **25/02/2008**

Reason for committee determination

Councillor Watson has requested that the application is brought before Committee because local concern has been expressed about a particular issue and because there are unusual site circumstances, which should be considered by the Committee.

Site Description

The site is a green field paddock area measuring just under a hectare in size. There are existing walls to the front and rear boundaries of the site and fences and hedges to the side boundaries with adjoining dwellings. The site slopes down from the front boundary with the road to the rear boundary. The rear of the site is located in the floodplain and the remains of a cottage, which was demolished in 1968, exist adjacent to the rear boundary of the site. There is a small copse of conifer trees on the site along with some isolated semi-mature individual trees spaced around the site.

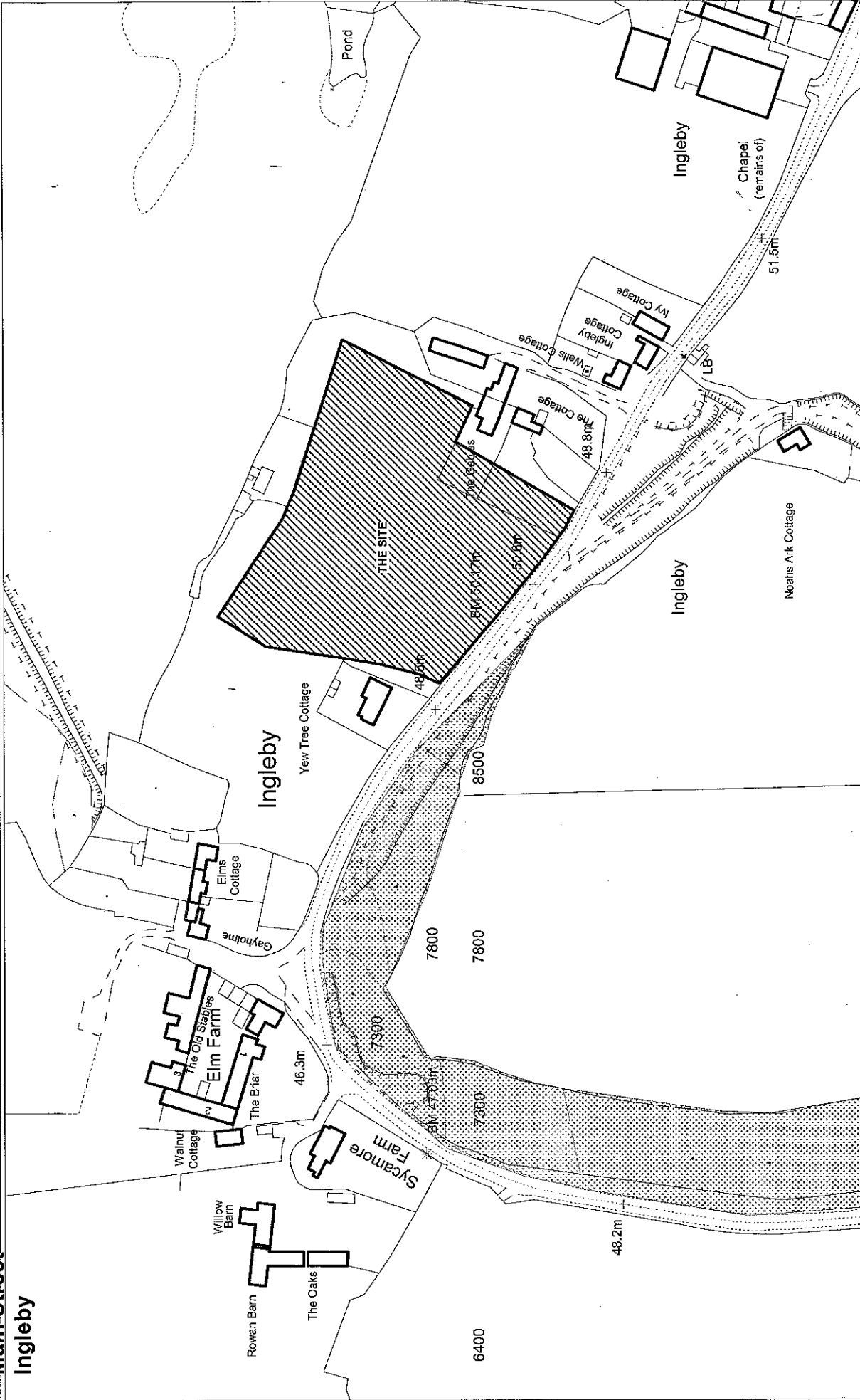
Proposal

The scheme is for a single detached dwelling to be located in the south eastern corner of the site. The access would be in the south western corner of the site and the existing front boundary wall would be repositioned to extend the footway by 1.8 metres. The dwelling has been designed to take account of the change in levels across the site so that the front roadside elevation is single storey and the rear elevation is one and a half/ two storey. The main footprint of the proposed dwelling would measure 22.5 metres by 7.5 metres with projecting gables at either end with an attached double garage projecting to the front. The proposed dwelling would be constructed of brick and stone with plain clay roof tiles.

9/2008/0229/F Land to the West of the Gables

Main Street

Ingleby



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Applicants' supporting information

The site

- The site is unused, the Applicant has planted some trees and keeps the grass down but it is not in any active use.
- There is an existing access serving the site.
- At the northern end of the site are the remains of a cottage, which was demolished in 1968 – a photograph has been submitted.
- Ingleby is a small settlement of some 25 dwellings and a large country public house. Development occurs in clusters along the northern side of the road and the site is located centrally in the village.

The Proposal

- The application seeks planning permission to erect one dwelling within the south eastern corner of the site. The proposal takes advantage of the natural gradient of the site by deploying a simple single storey elevation towards the highway, albeit set back some 30m from it.
- The existing vehicular access will be used. The existing footway will be widened to a width of 1.8 metres and the stone wall rebuilt. It is also proposed to form a resting place/ vantage point for walkers on the western frontage of the site.

Planning History

- The Authority refused an application identical to this one in February 2008 for one reason.
- Prior to this the authority last considered a planning application affecting this site in 2004, this was described as the rebuilding of the former blacksmith's cottage and was refused for 3 reasons.
- A planning application was also refused in 2002 for similar reasons.

The Planning Case

- The policies referred to in the 2004 refusal included structure plan policies, which have not been saved.
- The RSS has now replaced the Structure Plan however this is currently being reviewed.
- Policies 2 and 3 of RSS8 set out a rank or sequence for new development to follow and a set of criteria to judge such development using well established sustainability principles. They are not policies which carry a direct presumption as such against new dwellings in the countryside.
- The previous refusals refer to Environment Policy 1 and Housing Policy 6 of the Local Plan. These policies have been saved.

Other material considerations

- Recent refusals refer to the application site being outside settlements and within open countryside, neither of which is correct. The site is within the settlement of Ingleby. Had the authority decided to define limits to the settlement or describe its confines then the site would clearly and self evidently have been included. The site does not have the appearance of countryside and the gap between the dwellings that lie to both sides is not so significant that it could reasonably be regarded as an area of countryside that flows into the settlement. The land is not in an agricultural or other use associated with the countryside. It seems evident that the local planning authority has chosen to allow its countryside policies to "wash over" the village. However in the absence of an explanatory memorandum or justification in the local plan itself this is simply its own interpretation and not one that has evidently been tested or agreed. In any event the authority is inconsistent with itself in that in reason 1 of 9/2003/1435 speaks of the site being in the countryside and in reason 2 it regards the site as being within Ingleby for the purposes of the sustainability assessment.
- The authority has chosen to ignore Housing Policy 6 – Other rural settlements which allows infilling within a small gap, for not more than two dwellings. Trusley has been recognised as a rural settlement and is smaller than Ingleby. The development proposed is for one dwelling only.

Visual intrusion

- Again earlier refusals have opined that the development would result in a harmful intrusion into the countryside. Those earlier cases involved building upon the site of the cottage at the lower end of the site. It is agreed that the site chosen at that time would not have related well to the village form, being located away from it on lower land. The proposal here has been carefully chosen to reduce the visual impact. This has been achieved firstly by siting the proposed dwelling on a similar building line as neighbouring development upon the shoulder of the slope before it falls down onto the floodplain. Secondly, a design has been formulated which both respects local architectural styles in terms of proportions, gable widths, roof pitch and solid to void ratios whilst deploying an innovative design that uses the natural slope of the land to its advantage and limiting the visual impact.

Sustainable location

- Earlier refusals refer to Ingleby not being identified as a sustainable location. This refers to the Draft Local Plan which has been abandoned.
- It is recognised that Ingleby's sustainability credentials are not good. However, the application of national and regional statements to the development of one dwelling is hardly that relevant. Barn conversions and holiday chalets have been permitted in the area and these will generate more significant movements by private car.

Highway safety

- The Highway Authority has not raised objections in the past.

Flood risk

- The site chosen for the dwelling is outside the floodzone.

Domestic curtilage

- To avoid the domestication of the whole site the applicant is willing to limit the domestic curtilage of the dwelling to a reasonable minimum and a condition removing permitted development rights, The Applicant is also willing to agree to a condition requiring the permanent retention of the remaining land as paddock or pasture land or to be planted with trees.

Reasonably beneficial use

- Due to constraints the land is incapable of reasonably beneficial use. In the event that planning permission is refused the owner would have the option of serving a purchase notice upon the Authority requiring it to buy the land. Should the authority accept the notice or be required to upon appeal it should be noted that because there was a dwelling on the land in 1948 the value of the land would reflect the existence of the earlier dwelling.

Planning History

9/2007/1441 – The erection of a detached dwelling on Land to the West of the Gables. Refused 05.02.08.

9/2003/1435 – The reconstruction of the former blacksmiths cottage at the Gables. Refused 02.03.03.

9/2002/0579 – The erection of a single residential dwelling forming a country residence on land to the north of the Gables. Refused 26.06.02.

Responses to Consultations

The Highway Authority has no objections. Subject to conditions and a comment that sustainability of the location was an issue in previous refusals and needs to be reconsidered.

Severn Trent Water has no objections.

Responses to Publicity

One letter has been received from the Applicant's mother who lives in the adjoining property and supports the application and states that the cottage on the land was standing in 1949.

Development Plan Policies

The relevant policies are:

National Policy Guidance: PPS3 and PPS7

Draft RSS8: Policy 3

Local Plan: Environment Policy 1 and Housing Policy 8.

Planning Considerations

The main issue central to the determination of this application is the principle of residential development.

Planning Assessment

The site is a greenfield site located within the open countryside where new residential development is inappropriate in principle and contrary to the provisions of national and regional planning guidance and Housing Policy 8 of the Local Plan unless it is necessary to the operation of a rural based activity. The Applicant has made the point that the proposal should have been assessed under Housing Policy 6 which allows infill development within '*other rural settlements*.' However more up to date national and regional planning guidance makes it clear that new residential development should normally only be allowed in sustainable locations. Ingleby is made up of only a few dwellings and a pub with no other facilities and therefore performs badly when assessed against sustainability criteria. Residents could not live within Ingleby without being reliant on the private car to travel significant distances for goods and services, or to take up employment.

The site has an open character with a road frontage of over 75 metres in length and planted with sporadic trees. The proposed dwelling would result in a harmful intrusion into this open countryside setting to the detriment of the rural character of the area. In view of the frontage length and size of the site it could not be considered as a small gap suitable for infill development under the provisions of Housing Policy 6, even if Ingleby was considered a sustainable location.

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

Recommendation

REFUSE permission for the following reason:

The site is a greenfield site located within the open countryside where new residential development is inappropriate in principle unless it is necessary to the operation of a rural based activity. The development would result in a harmful intrusion into the countryside to the detriment of the rural character of the area, which is unwarranted in the absence of such a need. In addition Ingleby is not an established sustainable settlement and has insufficient facilities to enable residents to live within the village without being reliant on the private car to travel significant distances for goods and services, or to take up employment. The proposed development is therefore contrary to the provisions of PPS7 - Sustainable Development in Rural Areas, PPS3 - Housing, Policy 3 of the Draft RSS for the East Midlands and Environment Policy 1 and Housing Policy 8 of the South Derbyshire Local Plan.

2. **PLANNING AND OTHER APPEALS**

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

Reference	Place	Ward	Result	Cttee/delegated
9/2007/0281	Hilton	Hilton	Dismissed	Delegated
9/2007/0734	Newhall	Newhall	Dismissed	Delegated
9/2007/0996	Swadlincote	Swadlincote	Dismissed	Delegated



Appeal Decision

Site visit made on 5 February 2008

by **Alison Lea** MA (Cantab) Solicitor

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

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Decision date:
4 March 2008

Appeal Ref: APP/F1040/A/07/2059620

Hall Croft Farm, Uttoxeter Road, Hilton, Derbyshire DE65 5FZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Hibbert against the decision of South Derbyshire District Council.
- The application Ref 9/2007/0281/F, dated 9 March 2007, was refused by notice dated 8 May 2007.
- The development proposed is the conversion of a barn to a holiday let.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the appeal property and the surrounding area.

Reasons

3. The appeal property is a small barn. It is accessed by a long driveway which divides some distance from the public highway, one part to serve the farmhouse and the other to serve the barn, a number of other farm buildings and a fishing lake. The proposal would involve an extension and other alterations to the barn and its use as holiday accommodation.
 4. Recreation and Tourism Policy 1 of the South Derbyshire Local Plan (LP) provides that proposals for recreation and tourist facilities will be permitted providing that a number of criteria are met. These include that the facilities are of appropriate scale and design and are well integrated with their surroundings. The Council considers that the use of the barn as a holiday let is in principle acceptable and I agree. Furthermore, I note that there is an extant planning permission for the conversion of the barn to holiday accommodation and that the main difference between the permitted scheme and the appeal proposal relates to the proposed extension.
 5. The proposal would introduce a 2 storey extension to the south facing elevation, which would have a number of windows, including a large first floor window. Although I note that it is proposed that it would be built with materials to ensure it would blend with the existing building and its surroundings, I agree with the Council that the extension, due to its size and design, and in particular the windows, would significantly alter the character
-

and appearance of the barn, which would not retain its simple agricultural appearance. For these reasons I consider that the proposal would not be of an appropriate scale and design, and would appear out of keeping with its surroundings. It would therefore be contrary to LP Recreation and Tourism Policy 1.

6. Furthermore, although the barn is situated a considerable distance from the public highway, the south facing elevation is nevertheless clearly visible from the access drive to the farmhouse and to the established fishing facility and I therefore do not agree with the appellants' opinion that all views of the barn would be distant.
7. I note that a number of lean to buildings have been demolished. However, although I accept that these may have been larger than the current proposal, this does not alter my conclusion that the scale and design of the proposal would not be appropriate or well integrated with its surroundings. I also acknowledge the appellants' view that the appeal proposal, by providing 3 bedrooms, would appeal to the family market. However, I have been provided with no evidence to suggest that a conversion without the proposed extension would be difficult to let, and in any event, this does not outweigh my concerns with regard to the character and appearance of the appeal proposal.

Alison Lea

INSPECTOR



Appeal Decision

Site visit made on 5 February 2008

by **Alison Lea** MA (Cantab) Solicitor

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Decision date:
4 March 2008

Appeal Ref: APP/F1040/A/07/2060006

Land adjacent to 70 John Street, Newhall, Swadlincote

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr B Hughes against the decision of South Derbyshire District Council.
- The application Ref 9/2007/0734/F, dated 16 June 2007, was refused by notice dated 15 August 2007.
- The development proposed is the erection of a detached 2 bedroom bungalow.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the surrounding area.

Procedural Matter

3. There is a tree preservation order relating to 2 trees within the site: a rowan tree and an apple tree. Approval has been given for the felling of the apple tree subject to a condition that it be replaced with a walnut or wild cherry in the position of the felled tree. The apple tree has been felled but no replacement has been planted. Although I note the appellant's views with regard to the replacement condition, nevertheless there is no suggestion that a formal challenge has been made to the condition and I therefore give it significant weight.

Reasons

4. The appeal site constitutes part of the garden to a 19th century semi-detached house which forms part of a cluster of older properties located within a large estate of late 20th century properties. The proposal would introduce a bungalow to the site.
 5. The garden to No 70 John Street forms a gap in development in an otherwise built up area. I do not accept the appellant's view that neither the site nor the cul-de-sac from which it is accessed plays any visual part in the street scene. In my view, although the appeal site is not extensive, the lack of development and presence of trees provides a visual break in an urban area which makes a valuable contribution to the character and environmental quality of the area.
-

The break in development is clearly visible from The Leys which is part of the modern estate and the garden is overlooked by a number of properties adjoining the site. Although the bungalow would be of a simple design which would not appear out of keeping with other bungalows within the area, I consider that the presence of such development on the appeal site would cause significant harm to the character and appearance of the area. Accordingly the proposal would be contrary to LP Housing Policy 4.

6. Furthermore, the siting of the bungalow would leave insufficient space for a replacement tree in the position of the felled tree to grow to maturity, and, although no substantive evidence has been provided with regard to the likely impact of the development on the rowan tree, I accept that, due to the proximity of development, the proposal could result in damage to the health of the rowan tree and its possible loss. The mature rowan tree provides valuable visual relief, and although there would be some space for trees to be planted in other positions within the site, the loss of the rowan tree would be contrary to Environment Policy 9 of the South Derbyshire Local Plan (LP) which provides that development will not be permitted which would lead to the loss of specimen trees of value to their landscape setting. These matters therefore add to my concerns about this proposal.
7. I accept that given that the site forms part of the residential curtilage of No 70 John Street it constitutes previously developed land and that Planning Policy Statement 3; Housing (PPS3) provides that effective use of land should be made by re-using land that has been previously developed. I also accept that the site is in a sustainable location and that this weighs in favour of permitting this proposal. However, PPS3 makes it clear that there is no presumption that land that is previously developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed. It also provides, amongst other matters, that the retention of biodiversity within residential environments should be taken into account in assessing design quality. In my view, in this case, the impact of the proposal on the character and appearance of the area outweighs the need to make effective and efficient use of land.
8. I note the reference to parking problems relating to No 70 John Street and that the proposal contains provision for extra car parking for that property. However, although this may be a benefit, I am unaware of any reason why car parking for No 70 could not be provided independently of this proposal and in any event the provision of parking is insufficient reason to permit this proposal.

Alison Lea

INSPECTOR



Appeal Decision

Site visit made on 5 February 2008

by **Alison Lea** MA (Cantab) Solicitor

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Decision date:
4 March 2008

Appeal Ref: APP/F1040/A/07/2060575

Land to the rear of 55-63 Darklands Road, Swadlincote DE11 0PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr M Wheatcroft against the decision of South Derbyshire District Council.
- The application Ref 9/2007/0996/F, dated 17 August 2007, was refused by notice dated 18 October 2007.
- The development proposed is the erection of a bungalow.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues in this case are the effect of the proposal on
 - (a) the character and appearance of the surrounding area; and
 - (b) the living conditions of future occupiers of the property and of occupiers of neighbouring properties.

Reasons

3. The appeal site is located to the rear of Nos 55 and 63 Darklands Road, and is accessed by an existing driveway between those properties. Darklands Road is a busy suburban road, which rises from the centre of town, and is characterised mainly by 2 storey semi-detached houses, interspersed by some detached houses and bungalows, built to a generally rigid building line. There are further residential roads behind Darklands Road. The appeal proposal would introduce a bungalow to the rear gardens of Nos 55 and 63.
4. The proposal would be visible from the access way between Nos 55 and 63 and also from the rear elevations and gardens of numerous properties on Darklands Road and Sandringham Road. Nos 55 and 63 Darklands Road are 2 storey houses, as are the properties to the rear of the appeal site. Although I accept that, due to differences in levels, the appeal proposal, although a bungalow, would have a ridge height only slightly lower than the properties to the rear, nevertheless, as a result of its single storey design with rooflights, I consider that it would look out of keeping with neighbouring properties. Furthermore, its location in the rear gardens of Nos 55 and 63, close to the boundaries with neighbouring properties, would appear against the grain of surrounding

development, which is characterised by regular building lines. I agree with the Council that, due to the limited size and shape of the appeal site, the proposal would appear to have a contrived design.

5. I accept that as the appeal site forms part of the gardens of residential properties it constitutes previously developed land and that Planning Policy Statement 3; Housing (PPS3) states that effective use of land should be made by re-using land that has been previously developed. However, PPS3 also makes it clear that there is no presumption that land that is previously developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed. It also stresses that good design is fundamental to the development of high quality new housing and that development should be well integrated with and complement neighbouring buildings and the local area more generally in terms of scale, density and layout.
6. In my view, due to its design and siting, the proposal would not appear well integrated with or complement existing development, and would therefore fail to comply with advice in PPS3. It would also be contrary to advice in Housing Design and Layout (HDL) which has been adopted by the Council as supplementary planning guidance following public consultation, and which, amongst other matters, requires development to reflect the form and nature of surrounding development.
7. The appeal plan shows a number of windows to be obscured glazed, in particular the bedroom windows in the rear and side elevations. Although these rooms would also have roof lights, I agree with the Council that the use of obscure glazing to all the bedrooms would result in a poor outlook for future occupiers of the property, and that if obscure glazing is needed to prevent overlooking, the windows would also need to be permanently fixed shut. I consider that a condition to that effect would not be reasonable.
8. However, I note the appellant's view that the use of obscure glazing would be unnecessary, due to distances between properties and the fact that screen fencing is proposed. Guidelines in HDL suggest a minimum distance of 15m between first floor bedroom windows, and given the difference in levels between the properties I consider that the windows proposed in the bungalow should be treated on this basis in relation to properties in Sandringham Road. The distance between windows would be about 15m, and given that only the minimum is achievable, this, together with the proximity of the windows to the site boundary and therefore to the gardens of neighbouring properties, all add to my concerns about this proposal. Furthermore, although the proposed screen fencing would reduce the impact on the gardens of neighbouring properties, nevertheless, I consider that the proposed bungalow, given its proximity to the boundary with the rear gardens of properties on Sandringham Road, would, particularly given the differences in levels, appear overbearing from those gardens.
9. Reference has been made to a bungalow which has been constructed to the rear of No 12 Darklands Road, which is further up the hill and on the opposite side of the road to the appeal site. Although I was able to see part of this development from the public highway, I did not have access to the site and am therefore unable to make any valid comparisons. Furthermore I have no

information regarding the circumstances in which this development may have been permitted and in any event have determined this appeal on its own merits.

Alison Lea

INSPECTOR