

# **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).

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## **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.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
<b>9/2008/1104</b>	<b>1.1</b>	<b>Thurvaston</b>	<b>North West</b>	<b>1</b>
<b>9/2008/0713</b>	<b>1.2</b>	<b>Thurvaston</b>	<b>North West</b>	<b>7</b>
<b>9/2008/1014</b>	<b>1.3</b>	<b>Goseley</b>	<b>Harshorne/Ticknal</b>	<b>13</b>
<b>9/2008/1073</b>	<b>1.4</b>	<b>Newton Solney</b>	<b>Repton</b>	<b>21</b>

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.

20/01/2009

**Item** 1.1

**Reg. No.** 9/2008/1104/NO

**Applicant:**

Mr Peter Hammersley  
Thurvaston Farm  
Thurvaston  
Ashbourne  
Derbyshire  
DE6 5BL

**Agent:**

Mr Nigel Deville  
Deville And Lear LTD  
Mill lane works  
Ashbourne  
Derbyshire  
DE6 2EE

**Proposal:** The retention of an agricultural building at Thurvaston Farm, Thurvaston.

**Ward:** North West

**Valid Date:** 13/11/2008

**Reason for committee determination**

The report recommends (for reasons set out in the report) the retention of a building contrary to the consideration of an enforcement report by Committee last year.

**Site Description**

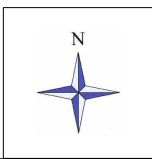
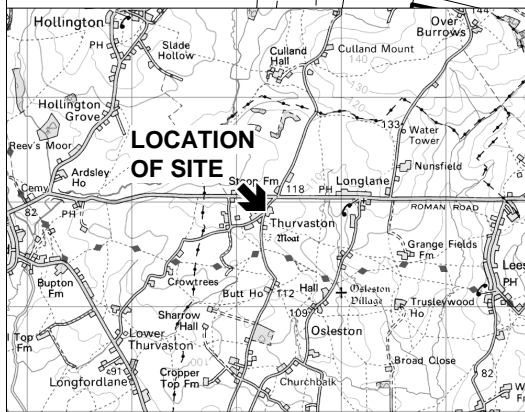
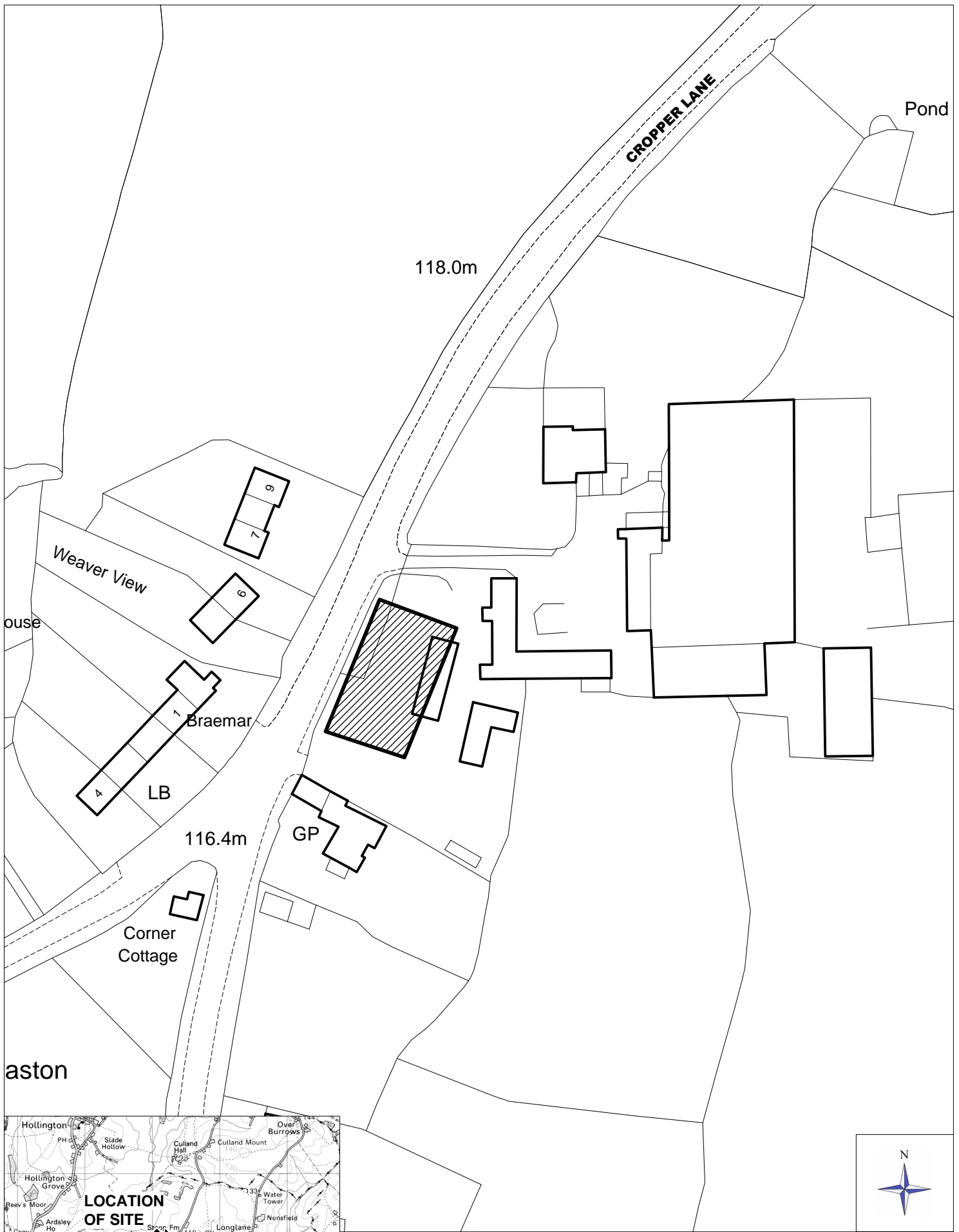
The building occupies a site immediately adjacent to the lane that passes through the village; the photographs to be displayed at the meeting will illustrate its relationship to the road. Between the building and the road is a hedge that was layered in the recent past and is now growing strongly.

**Proposal**

The proposal is to retain the building in the position it has been erected. It is constructed in concrete block with a metal sheet wall under a grey sheet roof.

**Applicants' supporting information**

The applicants have submitted a revised plan, in substitution for that which accompanied the application that shows the actual position that the building has been erected. This is different from the originally approved plan in that the building is closer to the hedge by some 2 metres. In addition the applicant has stated that the building would not be used to house cattle. It is also noted that the building that was permitted had an eaves height of 6.1 metres and the building that has been erected is 4.8 metres to the eaves. The applicants consider that this lower height is of benefit to the community.



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**South Derbyshire District Council. LA 100019461. 2009**

It is recognised that the erected building was not the one that was approved in 2002. The applicants confirm that it is the intention to store only hay and straw but also intend to temporarily store grain prior to it being dried at a nearby facility. The panels have been designed to store grain and the side cladding has ventilation holes built into it to provide ventilation. The canopy at the front side of the building is to provide better weather protection for the grain. The building is the minimum required to meet the farmer's needs and a previous Dutch barn was demolished to make way for the new building.

The reasons this site was chosen is that the farmer wished to replace his existing dilapidated buildings to develop the farm business. The building he seeks to retain is the first phase and in the view of the applicant it is important to site the building as close as possible to the road in order to fit the buildings onto the site. The second phase is the building subject to application 9/2008/0713 and the third would complete the courtyard and would be the subject of another application in the future.

The applicant accepts that the building has an impact on certain properties but considers the new building represents an improvement to the previous outlook when there was the Dutch barn and various farm implements were stored on an open yard. The new building is constructed in materials that reflect the character of modern farm buildings. The existing opening in the south elevation will be provided with a roller shutter door. In order to mitigate the views from across the road the applicant intends to plant at least 4 trees between the hedge and the building.

### **Planning History**

Permission was granted for this building in 2002 and it was subsequently erected although not exactly in accordance with the approved plans. At a meeting on 23 September the Committee resolved to take enforcement action on the basis that the building was being used for the housing of cattle and that this had the potential to cause, and indeed was causing, complaint and therefore such use would not have been permitted.

Permission was refused both in 2001 and 2004 for the erection of houses on this part of the farm.

Please also see the report on the application for an extension to this building subject to application 9/2008/0713.

### **Responses to Consultations**

The County Archaeologist has noted that there may have been archaeological remains within the farmyard in the past, but that as the ground has been disturbed and the building already exists there is nothing to be gained from requiring an archaeological assessment.

The Environmental Protection Manager has no objection subject to a condition requiring that no animals be housed in this building.

### **Responses to Publicity**

One individual letter and a letter from a planning consultant on behalf of 12 residents has been received that make the following points of objection:

- a) The position by the road is obtrusive and is an eyesore that should not have been allowed.
- b) The application plan for the building that was granted planning permission showed one that was fully enclosed, with two large roller shutter doors that reflected its stated purpose as a grain store. The farmer then stated he needed a grain assured building away from his cattle sheds. However the building that is now on the site is stated to be required to store hay and straw with occasional grain storage pending transport to a drying facility. Residents are unsure why an open sided building in close proximity to cattle sheds is now needed and that it would also attract vermin.
- c) The residents question whether there is consistency in decision making given that in 2001 and 2004 permission was refused for residential development on the basis that the development would be unacceptable in an open gap that contributes to the traditional and open appearance of the settlement of Thurvaston. Residents find it hard, in the absence of an assessment of other sites in the farm holding to understand what has changed. And it is asked that the building be refused in order to retain this important gap in line with previous decisions.
- d) Photographs from before and after the building was built are submitted to illustrate the impact of the building from dwellings opposite. The objectors' view is that the impact is significant and there was a pleasant outlook that contributed to the character of the village.
- e) The objectors consider that the building is in the wrong position compared to the plans submitted with the previous application and is much closer to the hedge than shown meaning that there is little scope for the tree planting proposed to mitigate the development.
- f) The access to Cropper Lane has not been widened as stated by the applicant and as the permission has now lapsed, it would require planning permission and as such the residents would want to be assured that the widening would not be detrimental to highway safety.
- g) The earlier application stated that this is the first of three buildings to be erected, thus two thirds of the buildings could be used to house livestock. Residents remain concerned that livestock would be close to the houses.
- h) The objectors contend that the building is contrary to the provisions of saved Local Plan Environment Policy 5 in that the building has caused visual harm to the village and its setting in the countryside and should therefore be resisted. If evidence proves that there are no alternative sites available then the residents consider that there should be extensive soft landscaping and this can only achieved by moving the building further away from the boundary.

### **Development Plan Policies**

The relevant policies are:

Local Plan: Environment Policies 5 & 14.

### **Planning Considerations**

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

- The Development Plan.
- The impact of the development on adjacent dwellings.
- Potential mitigation measures.
- Other material considerations.

## **Planning Assessment**

The Development Plan considerations, in the light of the County Archaeologists comments, relate only to the interpretation of Environment Policy 5.

This policy requires that agricultural buildings, where subject to planning control, should be located in close proximity to existing buildings, not have undue impact on the appearance of the countryside or natural history or heritage assets and that the visual impact of the building is minimised by appropriate attention to design, materials, screening and landscaping. The development should also not give rise to an excessive level of vehicular movements, noise or smell.

The building is well related to adjacent farm buildings. The level land in the vicinity of the site is limited by the presence of land Scheduled as an Ancient Monument. English Heritage has ruled out the possibility of putting buildings within the monument site so the applicant has significant constraints on where buildings can be located. In the light of this the area is considered to be the only location for new buildings within the farm complex.

The next issue is whether the building would give rise to excessive traffic movement, noise or smell. The Environmental Protection Manager has stated that there would be no objection to the building being retained, provided that no animals are kept within it. Recommended condition 4 deals with this matter and is considered to meet the tests for a planning condition that require it to be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

A condition is also recommended requiring the installation of the roller shutter door in the south elevation of the building to ensure that noise from activities within the building are minimised for the occupiers of the dwelling to the south.

Traffic levels in Thurvaston are not significant and as such it is not considered that this or the building proposed in application 9/2008/0713 would add to traffic issues in the village. Indeed the applicant states that no additional traffic is anticipated from the retention of this building.

The materials of construction are considered appropriate for a modern agricultural building.

The remaining issue is the mitigation of the impact of the building. There is no scope for mounding between the building and the boundary but the roadside hedge, following layering, is now growing strongly. There is sufficient space to plant some 'standard' trees that would be able to adapt to the presence of the building. A condition requiring that the trees be planted before the end of March, the planting season is recommended. Whilst as constructed the building is slightly nearer to the road than originally permitted its height is less and therefore the material impact is not considered significant overall.

The objectors have queried the consistency in the decision making process in that housing development was refused on this site. The primary reason for refusing housing development was the fact that the site was an inappropriate location for residential development. Housing development would have appeared incongruous in this rural location with a dwelling having a very different character and appearance to the agricultural building that one would expect to find in a rural setting.

Objectors have sought to assert that two thirds of the buildings at the site would be used to house animals. This is not the case as no animals are to be housed in this building or that referenced 9/2008/0713 which is to be used to store hay and straw or agricultural machinery.

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. Notwithstanding the originally submitted details, this permission shall relate to the amended site map received under cover of your compliment slip on 5 December 2008.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

2. Before the 30 March 2009, a minimum of 4 trees shall be planted along the west boundary of the site between the building and the road side hedge. Any of the trees which within a period of five years from the end of March 2009 die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenity of occupiers of dwellings on the other side of Cropper Lane and to mitigate the appearance of the building on those dwellings.

3. Notwithstanding the submitted details, the roller shutter door shown on the approved plans in the south elevation of the building shall be installed and be operational within 3 months of the date of this permission. It shall remain closed at all time except when required for operational reasons for access to or egress from the building. The door shall thereafter be retained in place whilst the building hereby permitted remains on the site.

Reason: In the interests of the amenity of the occuiers of the adjacent dwelling.

4. No part of the building hereby permitted, shall be used to house any animals or birds unless the Local Planning Authority has granted permission to any variation in response to a planning application made in that regard.

Reason: In the interests of the amenities of the occupiers of the adjacent dwellings.

Informatives:



Further to condition 2 above, use of the building to house livestock is specifically excluded by the terms of this permission. You are free to submit a planning application to house livestock in the building but given the location of the building in close proximity to houses it is unlikely that planning permission would be forthcoming.

**Item**            1.2

**Reg. No.**        9/2008/0713/F

**Applicant:**

Mr P Hammersley  
Thurvaston Farm  
Thurvaston  
Ashbourne  
Derby  
DE6 5BL

**Agent:**

Deville & Lear  
Mill Lane  
Roston  
Ashbourne  
Derbyshire  
DE6 2EE

**Proposal:**        **The erection of an agricultural building at Thurvaston Farm, Thurvaston**

**Ward:**            **North West**

**Valid Date:**     **03/07/2008**

**Reason for committee determination**

Councillor Bale has requested that the application come before the Committee as local concern has been expressed about a particular issue.

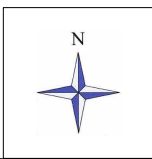
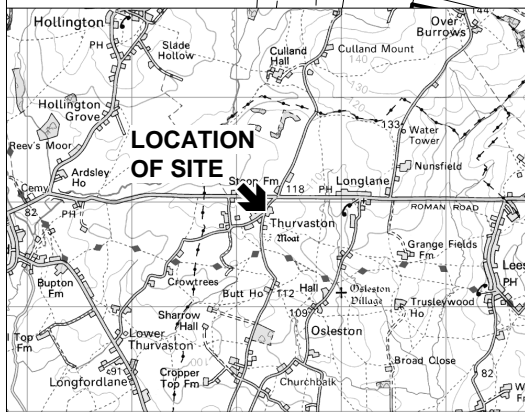
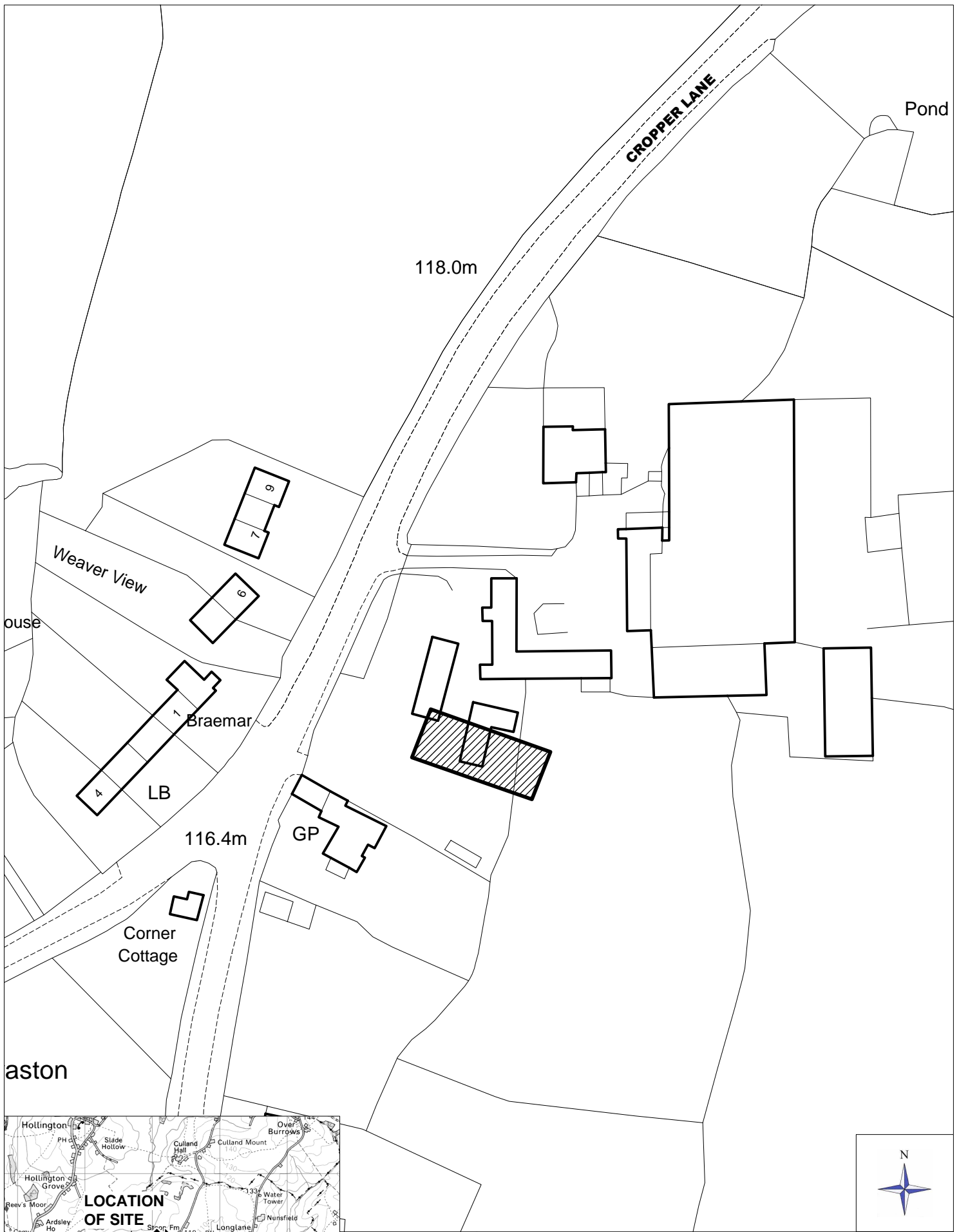
**Site Description**

The site lies immediately adjacent to the building that is subject of the report on application 9/2008/1104. It would immediately abut that building and run towards the east where the Scheduled Ancient Monument site is located. The building would not intrude into the monument site the boundary of which English Heritage has defined on the ground. To the south is Thurvaston House that has bedroom windows that look towards the site but is separated from it by a hedge. There is a roadside hedge (west) that was laid in the past couple of years and is now growing strongly. Beyond the road are the houses that make up the majority the dwellings in the settlement at Thurvaston.

**Proposal**

The application has been amended since submission to take the building out of the Scheduled Ancient Monument site (abandoned medieval settlement) and it is now to be set further into the courtyard of the farm away from the boundary with Thurvaston House. Whereas the original submission showed the current application for a detached building, the plans have been amended to show it as an extension to the existing building. It would measure some 27.25m x 13.72m with an eaves height of 4.57m and a ridge height of 6.61m and be used for the storage of implements hay and straw.

**Applicants' supporting information**



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The building represents the second phase of three to upgrade buildings on the farm. It is a building of modest proportions that meets the immediate needs of the farm. Its location is such that neighbouring dwellings would not be directly affected although the current view of the farmyard would be removed. The materials of construction would be concrete panel with slatted 'Yorkshire' board upper walls. The roof would match the Phase 1 building. An existing Dutch barn would be demolished. The farm needs to update its accommodation to meet modern animal welfare regulations.

### **Planning History**

Thurvaston House Farm has had numerous applications for development over the years. An application for houses on the site of the new building was refused in the mid 1990's. Permission remains extant for conversion of original farm buildings to residential. Permission for the most recently erected farm building was granted in 2002 although when erected in 2006 it was not in accord with the approved plans and a separate report regarding this is on the agenda.

### **Responses to Consultations**

English Heritage has no objections to the amended plans subject to the condition recommended by the County Archaeologist (see below).

The County Archaeologist in light of no objection from English Heritage recommends a condition be imposed to allow a qualified Archaeologist to observe excavations when they are undertaken and record any finds that are present. (see recommended condition 7)

The Environmental Protection Manager recommends a condition requiring that no livestock be kept in the proposed building in order to overcome any concerns relating to such use.

### **Responses to Publicity**

In response to the originally submitted scheme the following objections have been received to the proposal from five households: -

- a) The existing building is a blot on the landscape of the village, other dwellings have had to extend their properties in matching materials; this does not seem to apply to the farm. The proposed additional buildings would resemble an industrial estate and not be in keeping with the surrounding area and be of a very bland appearance. The loss of the existing traditional building to be replaced by the proposed buildings would spoil the traditional appearance of the area.
- b) Noise and flies have become a problem since this new building was erected. The noise of the cattle when separated from their calves is distressing to children and those who are ill. If all the buildings were used to house cattle the noise would be intolerable with some 150 – 200 cattle housed in the buildings. Environmental Health officers are concerned about the noise and flies and have seen the problem first hand.

- c) The farmer also wishes to install lighting and that would have an adverse impact on the occupiers of the front bedrooms of the dwellings opposite.
- d) There is inadequate screening of the existing building the hedge is not good enough.
- e) There would be a loss of value of the dwellings in the vicinity of this eyesore.
- f) The existing building has taken light from a nearby residential annexe the proposal would remove more light from the lounge.
- g) The application has not been properly advertised and residents had no opportunity to comment when the grain store was changed to house cattle.

A letter has been submitted on behalf of the occupiers of 6 dwellings (10 residents) in response to the amended scheme that make the following points:

- a) The close proximity of a livestock building to the dwellings - The houses in the vicinity of the proposed building suffer unduly from noise and disturbance cause by cattle bellowing in the hours of darkness. In particular there has been a problem with flies this summer that have entered people's houses. More cattle housed in this part of the farm complex would be unacceptable as shown by the objection from the Environmental Protection Manager.
- b) The unacceptable appearance of the existing building previously permitted as a corn store – as a first principle the building is not in accord with the approved plans, it has an open front and is not enclosed with roller shutter doors as shown on the approved plans. It appears to residents that an unauthorised building has been erected and now an extension to it is proposed to make the situation worse with even more cattle brought into the equation.
- c) The applicants have sought to justify the building on the basis that the outlook from the houses has already been spoilt by the building that is there and the views from the houses and that the current view of the yard is worse than the proposed view of the back of the building. However, there is no account taken of the impact of the building on residents on the other side of Cropper Lane especially as this is now being used to house cattle. The Permitted Development rights for farms state that the animal housing cannot be carried out as permitted development if it lies within 400 metres of a residential property. These residents are but a few metres away. Had permission been granted for the dwellings
- d) The development is clearly contrary to the provisions of Environment Policy 5 of the adopted Local plan in that the development would have adverse impact in terms of noise and smell on the occupiers of nearby dwellings. The permission would allow the farmer to continue the incremental establishment of an inappropriate use in this location. A cattle building would not have been permitted in this position in the first place had it been proposed as such – it should not be permitted now as an extension to the existing building.
- e) Please also see the comments from objectors to application 9/2008/1104 as those have been linked to this application. Please also see the officer response

to that objection letter in that report. They are reproduced in full as they appear elsewhere in the agenda.

One household has acknowledged that the amended scheme is an improvement on that previously submitted and if it were permitted would wish to see conditions requiring landscaping along its southern boundary and timber used in place of the metal finish. He adds that the proper disposal of roof water should be made and the land between the proposed extension and the house to the south should be kept clear to minimise any risk of fire spread.

### **Development Plan Policies**

The relevant policies are:

Local Plan: Environment Policy 5 & 14

### **Planning Considerations**

The main issue central to the determination of this application is the impact of the building on the amenities of the residents in Thurvaston in terms of noise and smell and the requirements of Environment Policy 14 in respect of any archaeological remains that may be present on the site.

### **Planning Assessment**

Environment Policy 5 permits the erection of farm buildings on agricultural land provided that buildings are of an appropriate scale and sited in close proximity to existing buildings; do not detract from views across the countryside; the visual effects is minimised by landscaping, screening and use of materials; and the proposal does not give rise to an excessive level of vehicular movements, noise or smell.

The proposed extension is of an appropriate scale given that its eaves height is less than 5 metres with an overall height of 6.61 metres. It is clearly in close proximity to the existing farm complex. However, the siting is also relatively close to the existing dwellings in Thurvaston. This is because expansion of the farm complex to the south and east is constrained by the presence of the significant archaeological remains. The extension, in the context of its relationship with the existing building, would not detract from open views across the countryside. Vehicular movements are not an issue in the determination of the application. The proposal must therefore be assessed against the remaining criteria of screening/landscaping, noise and smell.

This extension can be screened by hedge and tree planting the trees would be in close proximity to the adjacent dwelling and could have a greater impact than the building itself on the amenity of its occupiers. They have commented that a hedge and tree-planting scheme should be implemented immediately adjoining the extension. A landscaping condition is therefore recommended.

Objectors have raised the noise and smell issue. The applicants have agreed that no animals should be housed in any part of this extension building and a condition securing this as advised by the Environmental Protection Manager is recommended.

Environmental Protection Officers have visited the farm to look at the fly problem raised by the objectors. It appears that the flies are being generated in the older buildings and officers have suggested means by which the problem could be reduced. This is not a

planning issue as the fly problem is controlled by environmental health legislation. Officers are satisfied that the new buildings allow for early removal of materials and as such there is limited opportunity for flies to breed in the newer building.

There is the possibility of archaeological remains on the site but farming activities over many years has disturbed the land. This matter is adequately covered by the proposed condition.

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

## **Recommendation**

**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 drawings received under cover of your letter dated 12 August 2008.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the building hereby permitted, shall be used to house any animals or birds unless the Local Planning Authority has granted permission to any variation in response to a planning application made in that regard.  
Reason: In the interests of the amenity of the occupiers of nearby residential dwellings.
4. No work shall take place on the site until details of a scheme for the disposal of surface water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.  
Reason: In the interests of flood protection.
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.  
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.

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

7. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing. The submitted scheme shall make provision for a qualified archaeologist to be present at the site for the duration of excavation works to record any archaeological remains that may be present. In the event that such remains are identified, the works of excavation shall cease to allow the finds to be assessed and recorded.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.



**Item** 1.3

**Reg. No.** 9/2008/1014/FM

**Applicant:**

Wildwood Estates Limited  
Widmerpool  
Nottingham  
NG12 5PZ

**Agent:**

Mr Jonathan Grew  
DWG Design Limited  
Officer 3 Gretton House  
Centrum 100  
Burton upon Trent  
Staffordshire  
DE14 2WQ

**Proposal:** The erection of four dwellings on Land Between 11 13  
Goseley Avenue Hartshorne Swadlincote

**Ward:** Hartshorne/Ticknall

**Valid Date:** 30/09/2008

**Reason for committee determination**

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

**Site Description**

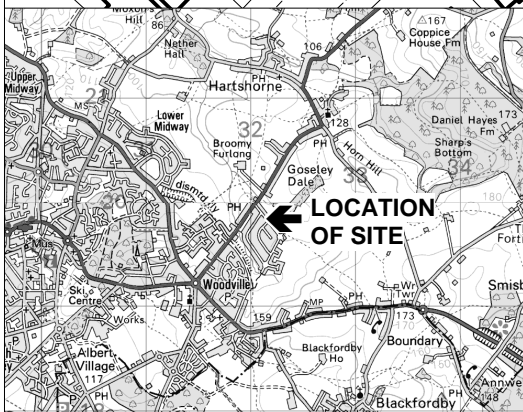
The site is situated within a residential area within the Swadlincote development boundary. The site was previously owned by the Council and comprises of an area of hardstanding formerly occupied by garages. The site frontage to Goseley Avenue is a low brick wall with domestic fences and walls of varying heights enclosing the remainder of the site. There are houses to either side of the site with fields to the rear and bungalows on the opposing side of Goseley Avenue.

The site slopes down from the road frontage to the rear of the site. Goseley Avenue slopes down towards Hartshorne Road with No. 13 Goseley Avenue positioned at a higher level than the application site and No.11 Goseley Avenue at a lower level.

The existing access to the site is located at the centre of the site frontage with a bus shelter located to the left of this.

**Proposal**

The application is for the erection of four 2-bed terraced properties with gardens to the front and rear. The two-storey dwellings would be set back from the road frontage in a similar line with the existing properties along Goseley Avenue. Parking for eight vehicles would be provided to the rear of the site to be accessed by a private driveway situated along the northwestern boundary of the site. The existing bus stop and shelter would be relocated along the site frontage to allow for the new vehicular access.



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## **Applicants' supporting information**

The applicant has submitted a Design and Access Statement with the application that includes the following points:

- The site is within an established residential area.
- The site is presently unused and is in an untidy state and is of no benefit to the community. Development of the site can only be beneficial.
- The scheme respects the minimum distances to the kitchen windows (9 metres) to the adjacent properties, Nos. 11 and 13 Goseley Avenue.
- The proposed dwellings will be similar in scale and proportion to the adjacent dwellings in Goseley Avenue and constructed of brick walls and pitched tile roofs in a similar manner to adjacent properties.
- The existing boundaries will be supplemented with tree and shrub planting to provide an effective screen to the adjacent gardens.
- Access to the site will be from Goseley Avenue with a 4.2 metre wide private driveway leading to a parking area at the rear providing two spaces per dwelling.

## **Planning History**

The site has outline approval for the erection of two new dwellings granted in September 2007.

## **Responses to Consultations**

The Highway Authority in consultation with the County Public Transport Unit has no objection following the receipt of amended plans re-siting the bus stop at the centre of the site frontage further away from the junction with Brookdale Road.

The Crime Prevention Officer comments as follows:

- Generally a good simple layout adding activity and surveillance to the street and bringing an abandoned plot back into use benefiting and improving the area, removing the nuisance and vandalism problems.
- The rear boundary fence of 1.2m post and rail fence and hawthorn whips provides inadequate protection for the occupiers parked vehicles and the 1.5m inner plot boundaries and gates will easily be defeated. The vulnerable boundaries should be a minimum height of 1.8m.
- The front boundary lacks clear defensible space. Individual walls and gates should be included to define the front of these properties.
- The existing bus shelter has been subject to vandalism. The existing brick wall surround is being replicated assisting climbing access onto the prefabricated shelter.

Hartshorne Parish Council objects commenting that the bus stop is too close to the junction of Brookdale Road and is also concerned that there is potential for youths to congregate in the parking area at the rear of the site however this problem could be resolved by additional fencing.

## **Responses to Publicity**

A petition containing 264 signatures has been received objecting to the proposed re-siting of the bus stop expressing concern that moving the bus stop nearer to the junction with Brookdale Road, which is a very busy junction, will be a cause of accidents.

Following the receipt of amended plans moving the bus stop further away from the junction with Brookdale Road a second petition containing 264 signatures has been received maintaining this objection.

Four letters of objection have been received raising the following concerns:

- The re-siting of the bus stop closer to the junction of Brookdale Road will make existing matters worse and it will be only a matter of time before there is a serious accident.
- Goseley Avenue is a very busy road with parked cars, pedestrians and a lot of traffic visiting the shop and takeaway.
- The driveway and provision of parking to the rear of the site will result in an uncontrolled access to an unlit area where non-residents may congregate resulting in anti-social behaviour and risk to vehicles parked there. Residents may be unwilling to park there, instead leaving vehicles on the street.
- It is not clear why resident parking is not provided to the front of the properties as has been done for all other new housing on the estate where there is the benefit of street lighting.
- The driveway results in unnecessary areas of paved impervious surface which would cause additional surface water run off.
- Any relocation of the bus stop closer to the junction remains undesirable.
- If the bus stop is moved we will protest and block access to the site.

### **Development Plan Policies**

The relevant policies are:

RSS8: Policies 2 & 3

Local Plan: Housing Policy 4

### **Planning Considerations**

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

- The principle of development
- Highway safety
- Impact on the amenity of neighbouring properties
- Impact on the character and appearance of the area
- Crime prevention and community safety

### **Planning Assessment**

The principle of residential development of the site has been established with the existing outline consent for the site granted in 2007.

The bus shelter located to the left hand side of the site frontage within the site boundary would need to be re-located in order to allow for the creation of the new vehicular access providing access to the parking area to the rear of the site. Parking provision for

eight vehicles in total is required which could not be accommodated satisfactorily to the front of the site. The original submission relocated the bus shelter at the front of the site adjacent to the boundary with No. 13 Goseley Avenue and closer to the junction with Brookdale Avenue located on the opposite side of Goseley Avenue to the southeast of the site. Following an objection from the Highway Authority in consultation with the Public Transport Unit amended plans have been received re-siting the bus shelter at the centre of the site in the position of the existing access and situated approximately 16m away from the corner of the junction with Brookdale Avenue. The revised location is considered acceptable and the Highway Authority has no objection subject to the imposition of conditions.

The neighbouring properties either side of the site, Nos. 11 & 13 Goseley Avenue, have main kitchen windows overlooking the site. The proposal complies with the required minimum distance of 9m to these neighbouring windows and is sufficient distance away from the bungalows on the opposing side of the road so as not to have any adverse impact on the amenity of the occupiers of these neighbouring properties.

The proposed dwellings would be set back from the road frontage maintaining the existing building line along this part of Goseley Avenue and would have the appearance of two semi-detached properties with main elevations to front and rear in keeping with the existing development on this side of the road. The dwellings would reflect the scale and character of the area with the ridge height staggered between the heights of the existing neighbouring properties and the simple appearance reflecting that of the existing local authority built semi-detached properties characteristic of much of the Goseley Estate.

The application has been amended to provide a 0.6m wall along parts of the site frontage to demarcate the front boundaries and define defensible space. The boundary treatments to the rear of the site can be conditioned ensuring boundary fencing of sufficient height and security is provided to the rear parking area and rear gardens. The rear parking area is accessed by a private driveway and adequate surveillance would be provided by both proposed first floor windows and existing neighbouring windows overlooking this part of the site.

The proposed driveway is unlikely to result in any increase in surface water run-off to that from the existing site which is hard surfaced.

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

## **Recommendation**

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

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

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

2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the 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.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 3442/26C received 14 November 2008.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
4. 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.
5. Before any operations are commenced the bus stop and shelter shall be relocated in accordance with the revised drawing number 3442/26C, this being undertaken in consultation with the Public Transport Unit at Derbyshire County Council.  
Reason: In the interests of highway safety.
6. Before any other operations are commenced a new vehicular access shall be created to Goseley Avenue in accordance with the revised application drawings, laid out, constructed and maintained in perpetuity free from any impediment to its designated use.  
Reason: In the interests of highway safety.
7. Before any other operations are commenced (excluding the relocation of the bus stop and shelter and the creation of the new access, the subject of Conditions 5 & 6 above) the existing vehicular access to Goseley Avenue shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway in a manner to be agreed in writing with the Local Planning Authority in consultation with the County Highway Authority.  
Reason: In the interests of highway safety.
8. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the revised application drawings for the parking/manoeuvring of residents vehicles, laid out, surfaced and maintained throughout the life of the development free of any impediment to its designated use.  
Reason: In the interests of highway safety.
9. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.  
Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the

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

10. 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.

11. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

12. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

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

13. 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.

#### Informatives:

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include: Collapse of shallow coal mine workings; Collapse of, or risk of entry into, mine entries (shafts and adits); Gas emissions from coal mines including methane and carbon dioxide; Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide; Transmission of gases into adjacent properties from underground sources through ground fractures; Coal mining subsidence; Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips. Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate

measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas. In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted. Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

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

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification shall be given to the Environmental Services Department at County Hall, Matlock (tel: 01629 580000 Ext 7595) before any works commence on the vehicular access within highway limits.

The scheme of measures to minimise the risk of crime to meet the specific security needs of the application site and the development required by condition 9 should include measures to prevent unauthorised access to the roof of the bus shelter.



**Item**            1.4

**Reg. No.**        9/2008/1073/SSA

**Applicant:**

Dr Mark Flynn  
Bladon House School  
Newton Road  
Newton Solney  
DE15 0TA

**Agent:**

Mr Douglas Hughes  
Hughes Architects Ltd  
Newtown  
Powys

**Proposal:**        **The erection of three housing blocks to provide residential accommodation for pupils and the erection of a laundry and activity building and associated parking at Bladon House School Newton Road Newton Solney**

**Ward:**            Repton

**Valid Date:**     07/11/2008

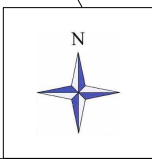
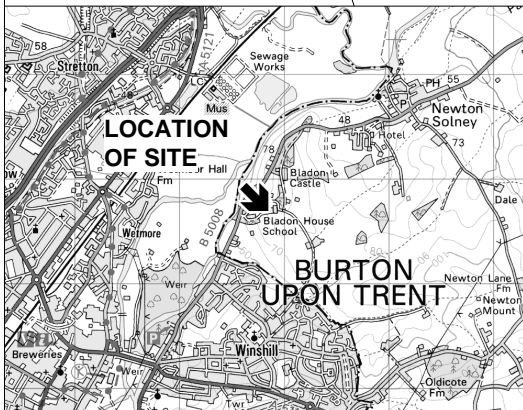
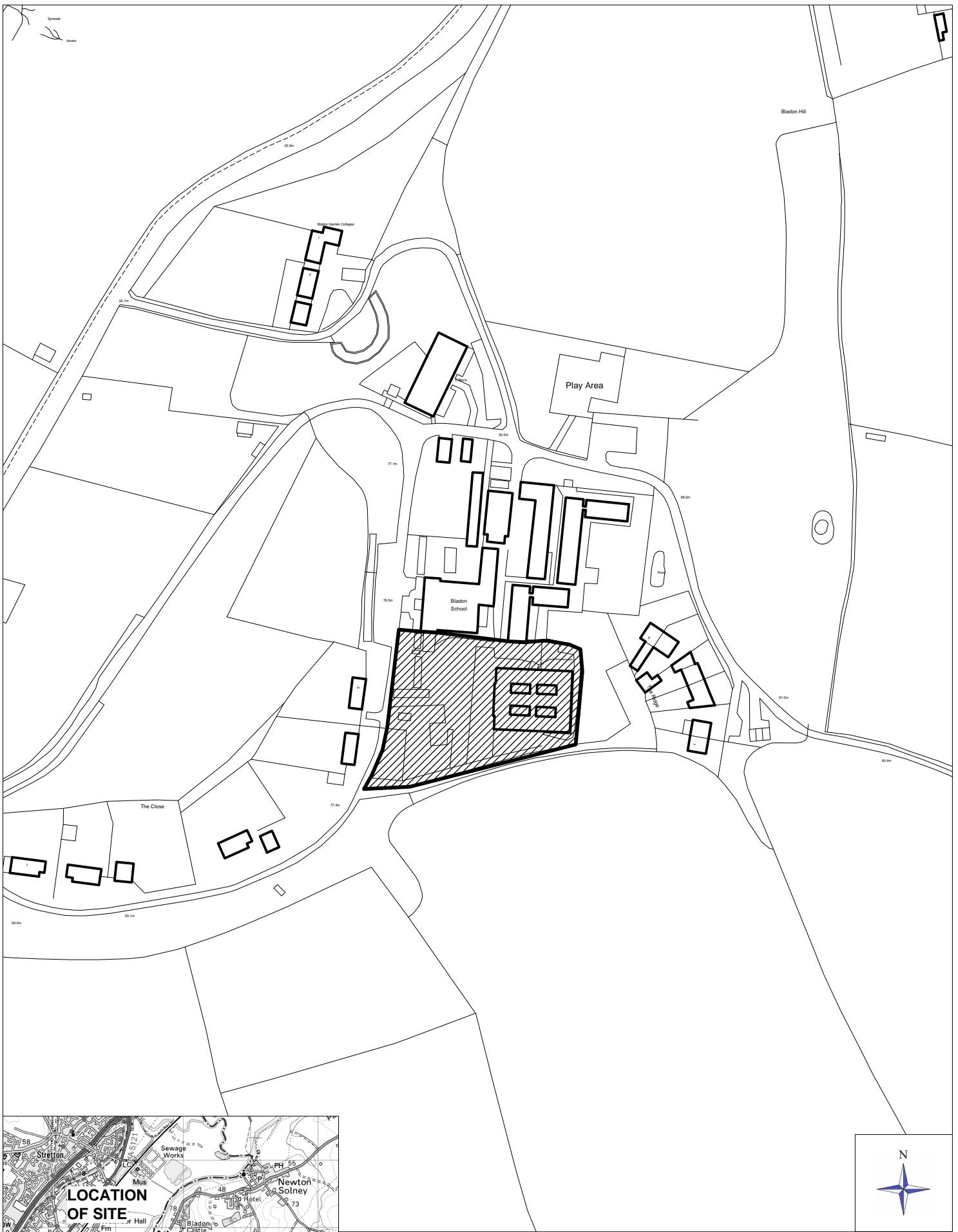
**Reason for committee determination**

The application is brought to Committee as it is a major application and more than two letters of objection have been received.

**Site Description**

Bladon House School is situated within open countryside between Newton Solney and Winshill and sits within a parkland setting containing several mature trees, many of which are subject to an area Tree Preservation Order. The existing buildings comprise of Bladon House, a 19<sup>th</sup> Century Georgian house, and modern ancillary school buildings and more temporary portacabin accommodation situated to the north and east interspersed with parking areas, the main car parks being to the front and side of the main house. Bladon House sits in a prominent position on a plateau within the hillside overlooking a grassed open area of land that drops away from the front of the house to the west towards Newton Road and the floodplain of the River Trent. Access to the school is via a shared access from Newton Road that divides to provide access to the residential properties to the south and east of the site known as The Close and The Ridge and an access road to the school that cuts through the grassed open area of land.

The application site is situated in the south eastern corner of the school grounds to the side and rear of Bladon House and was previously occupied by a prefabricated building now demolished. The site slopes upwards to the eastern rear boundary with a sharper rise towards the rear edge of the site leading to a variation in levels of some 5m from front to rear. The site is bound to the east by 2m close board fencing and a line of tall conifer trees beyond which are situated the residential properties of The Ridge



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**South Derbyshire District Council. LA 100019461. 2009**

positioned further up the slope. Close board fencing and a partial line of trees mark the southern boundary which lies adjacent to the access road to The Ridge with agricultural land beyond. To the north of the site are Bladon House and the existing portacabin accommodation for the residential students. To the west are the residential properties of Nos. 4 & 5 The Close. The TPO trees within the site are generally situated towards the edge of the site.

## **Proposal**

The application proposes the erection of three five/six bed house blocks and an ancillary laundry and office building and activity building centred around a communal garden area together with a new parking area to the west of the site. The residential accommodation would be two-storey and is intended to replace the existing inadequate portacabin accommodation currently situated to the north of the application site. The proposed parking area would consist of 43 spaces and is intended to consolidate the existing sporadic parking within the grounds of Bladon House. The existing trees on site would be retained. Part of the ground at the front and rear of the site would be levelled to match levels at the centre of the site.

The houses would be 7m in height to the ridge with a roof lantern 1.8m high positioned on the top of the roof to allow light and ventilation to the first floor landing areas. Each house would contain six bedrooms, with the exception of House 2 which substitutes a staffroom for a bedroom, and would have dining, kitchen, living and wash areas. The laundry and office building and activity room would be single storey. The activity building is intended to provide a small “break-out” space serving the houses.

The existing portacabin accommodation to the rear of the brick built gymnasium behind Bladon House is intended to be retained and converted to educational and office facilities with the portacabin accommodation immediately adjacent to the site removed.

## **Applicants’ supporting information**

### Background Detail

Bladon House School is managed by the SENAD group and specialises in autism, speech and language disorders, moderate to severe learning difficulties and associated behaviour difficulties working with pupils aged 5 to 19 years providing both on site residential and day placement facilities. Each house unit has its own team of Care Staff under the guidance of Senior Management and Night Waking Staff are employed to oversee the children with the support of Care Staff who sleep in.

A portion of the existing living accommodation on site is in temporary buildings which are no longer fit for purpose. The new dwellings proposed are to replace existing facilities to ensure that the school can continue to function appropriately.

### Design and Access Statement

The Design and Access Statement submitted with the application includes the following points:

- The houses are domestic in design in order to move away from the institutional accommodation block which is not conducive to the education or the lives of the pupils who live there.
- The three houses are grouped to create a discrete courtyard garden providing visual seclusion from the main school. The shared courtyard aims to provide a safe outdoor environment for the children allowing outdoor independent play while being observed by staff.
- The three dwellings are designed to be subservient to Bladon House, while being of modern appearance and domestic in style. Key features include a modern, classical and symmetrical appearance with clearly articulated features and entrances. The low scale of Bladon House has inspired a shallow pitched roof, topped with a lantern to bring light into the first floor circulation area.
- The overall aesthetic is modern yet sympathetic to Bladon House whilst capturing the key elements of a traditional 'house' that a child may draw.
- A scheme of soft landscaping around the new houses has been proposed to augment the existing setting of Bladon House.
- Each individual house will have small garden areas looking out onto the grassed courtyard with the intention that over time pupils living in the houses will plant up and maintain the grassed area giving them a sense of ownership of the space.
- The existing car parking is haphazard and results in parking by staff and visitors all over the campus sometimes putting the safety of pupils at risk. The aim is to provide a new central car park and to hard surface other temporary areas to define appropriate spaces together with a new car park providing some 43 spaces in order to alleviate parking around the existing school building and along onsite roads.

The applicant's agent has submitted a letter clarifying the following points:

- The proposed residential accommodation is not additional accommodation to increase the capacity of the site. It is to create new high quality accommodation to replace existing sub standard portacabin accommodation on the site. There will be no increase in the numbers of children as a result of this application.
- There will be no increase in traffic flow to the site as a result of this application. Exactly the same number of children and staff will be retained on site.
- The Bladon House School has existed for approximately 30 years and is licensed for 100 children although the school currently operates on the basis of 65 children and there is not intention to increase this.
- The position of the new buildings is previously developed land used for the location of other portacabin accommodation demolished because its standard had deteriorated and it was not being used.

In addition the Head of Bladon House School has submitted the following information:

- SENAD will be writing to the Department for Children, Schools and Families with a request to change the school's approval status from 100 boarders and 30 day pupils to 65 boarders and 30 day pupils.
- 65 represents the current total number of beds 28 of which are in offsite houses in Burton.
- The total number of onsite beds is 35 and will remain so with the new build.

- Should the new build go ahead it is intended to decommission the current portacabin accommodation as residences although one building may be utilised for office and education purposes.

## **Planning History**

Planning permission was granted in 1983 for Dove House, a block of 3 prefabricated classrooms and a residential unit that occupied the application site but has since been demolished. The school site has been subject to numerous previous planning consents for temporary portacabin accommodation the latest one being in 2004.

## **Responses to Consultations**

The Highway Authority has commented that the access serving the site is severely substandard in terms of visibility and that it would oppose any proposals that would increase its use. However, provided that the Planning Authority is satisfied that the proposed accommodation is a replacement of existing temporary accommodation and that the new car park is to be provided in an attempt to consolidate existing haphazard parking within the site and as such is deemed to be ancillary to the existing use of the site, there are no highway objections.

The Contaminated Land Officer has no objections subject to the imposition of conditions.

Newton Solney Parish Council object raising the following concerns:

- The current access is dangerous and any increased use of the school will result in increased traffic on this dangerous junction.
- Should the proposal be accepted the Parish Council would strongly seek the need for the access to be upgraded as a first act in order that construction traffic can access the site safely.
- The proposed buildings are out of keeping and overbearing to the surrounding area.
- The proposal states that the buildings will be a like for like replacement but this is not the case as two storey buildings will replace existing single storey buildings the upper storey of which will be seen by existing residents.
- There are strong concerns about the security of both the children and of existing residents. The children wander off site and are frequently found in residents' gardens. If security is not correct, children with increased severe disabilities will be wandering off site at risk to themselves and possibly residents.

## **Responses to Publicity**

Ten letters of objection have been received raising the following concerns:

- The current access road is substandard and unsuitable for the increased traffic including plant traffic and future staff and pupils that will occur.
- Many accidents have happened over the years and any further traffic would make it impossible for the residents of The Close and The Ridge to navigate the area safely.
- No consideration appears to have been given to how construction traffic will intermix with, or disrupt, the day to day school traffic (of which there is a lot).

- During a previous building project at the school the construction firm sought access to the site via The Close, a private road not suited to such heavy vehicles which could damage the road and surrounding private land and we are concerned this could happen again.
- Local residents would like to see the School have its own access further down Newton Road, or have speed calming measures introduced on the initial joint access road.
- A temporary (or even permanent) new access created from Newton Road across the school fields would be ideal so that construction traffic does not use the current shared access road.
- The development will threaten the rural environment and habitat on this last green belt before Burton-on-Trent.
- The appearance and size of the buildings planned looks far larger than the one storey pre-fabricated buildings on site and yet the planning application states these buildings are a replacement.
- The new structures are designed for 'visual impact' but the area of visual impact is the second storey making it far more visible to the residents of The Ridge.
- The first floor will be rendered to the outside and painted so as to provide visual stimulation to the pupils. This is not in keeping with the surrounding area and is not sympathetic to the original hall building.
- The buildings are not in keeping with the surrounding locality, due to both the size, height and colour scheme.
- The residents of the proposed new buildings will benefit from the views over the surrounding countryside at the expense of the existing residents of The Ridge and The Close.
- We would like to see the possibility of using the existing playground (lower) ground level as the base level for the entire site development and moving the buildings away from the boundary.
- The residents of The Ridge will suffer loss of privacy, will be overshadowed and overlooked with the two storey buildings being sited as far from the school as possible and close to the adjoining private properties.
- Bladon House School is a large site and there are other places where these buildings could be erected which would not affect the privacy of the residents of The Ridge.
- We are concerned about increases in noise levels and the safety of our children. The children from the school frequently enter our gardens and this would increase if they are living closer to us.
- The application should include additional substantially improved perimeter fencing to ensure that the children cannot easily stray into the neighbouring residential area.

### **Development Plan Policies**

The relevant policies are:

Local Plan: Community Facilities Policy 1

### **Planning Considerations**

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

- The principle of development
- Highway safety

- The impact on the landscape character of the area
- Design
- Impact on the amenity of neighbouring properties
- Security

## **Planning Assessment**

Bladon House School is an established educational facility within the countryside. Community Facilities Policy 1 allows for the improvement of existing community facilities providing that the development does not cause disturbance to local amenity with additional noise or traffic generation; adequate provision is made for parking, servicing, screening and landscaping and that the proposal is of an appropriate scale and design well integrated with its surroundings. Therefore development of the site is acceptable in principle subject to meeting the required criteria.

The shared access serving Bladon House School and the neighbouring residential properties from Newton Road is severely substandard in terms of visibility. The road divides approximately 40m from the entrance to form a single track access to the residential properties of The Close and The Ridge with a further separate single track road providing access to the school. The visibility for vehicles leaving the access road from The Ridge or The Close is also substandard. The Highway Authority has advised that they would oppose any increased use of the access to the site. The applicant has submitted information clarifying that the proposed development is intended as a replacement of and not expansion of existing on-site accommodation. The existing portacabin accommodation contains a total of 20 bed spaces with the replacement accommodation proposing a total of 17 bed spaces in total. The new car park which is to provide 43 spaces is to consolidate the present random parking within the school site and is not intended to accommodate any increase in vehicles to the site. The proposed development is considered to be ancillary to the existing school buildings and is not considered to present an increase in vehicular movements to the site. It is acknowledged that there would inevitably be an increase in vehicular movements during the period of construction. A Unilateral Undertaking could be required in an attempt to secure more specific construction routes and vehicle movement times to the site.

Bladon House is in an elevated position above the Trent Valley clearly visible from Newton Road. The proposed development would be situated to the right of the main house but set further back within the site. The proposed units would be visible from Newton Road but would be viewed as ancillary buildings to the main house partially obscured by existing trees on site. Due to the site's elevated position the development would be visible at a distance from residential properties in Winshill situated on Dalebrook Road to the south of the application site. The development would be viewed behind the boundary fence and within the existing tree line that borders the site with the properties of The Ridge visible to the east of this. The proposal would not be visually prominent within the landscape and it is not considered that there would be any significant adverse impact on the character of the surrounding rural landscape.

The appearance of Bladon House is one of classical and symmetrical proportions with a clearly defined pillared entrance and a strong vertical and horizontal articulation emphasised by such features as the elongated regimented window pattern, the protruding first floor and cill bands and the balustrade that straddles the top of the building. Inset within these balustrades but not clearly visible from the ground is a

shallow pitched roof. The proposed houses have been designed to appear as a modern interpretation of the key characteristics of Bladon House reflecting the symmetry and defined features such as the entrance and fenestration details. Although the houses would sit approximately 1.76m above the ground level of the rear of Bladon House the roof levels including the roof lanterns would fall below that of the main house and would by virtue of their set back position and height appear as subservient structures.

Nos. 4 & 5 The Close are situated to the west of the site at a lower level with rear windows facing towards the site. The rear of these properties would be situated some 21m from the proposed car park with the front elevation of House 1 situated over 50m away. The residential properties on The Ridge are situated in an elevated position facing towards the rear boundary of the site the front elevations of which are situated a minimum distance of 21m away from the site boundary. House 3 would be situated within 11m of this rear boundary but at approximately 3m lower than the rear boundary level which is marked by a 2m close board fence with conifer trees of varying heights behind but of a minimum height of 4m. The first floor windows to the rear elevation of House 3 serve washrooms and could be obscure glazed if necessary. Part of the first floor and roofs of the development would be visible from these neighbouring properties but there is not considered to be any adverse impact in terms of overlooking or overbearance to these neighbouring properties.

The security of the school site as a whole has been raised as a concern by the neighbouring properties. There is an existing 2m boundary fence around parts of the external boundaries of the application site. Further details addressing the boundary security of the application site could be required by condition.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the 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.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 08/1716/03/A received 8 January 2009.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.



4.
  - 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 shall 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 shall 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.

5. 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.

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

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

7. 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.

8. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

9. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

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

10. The first floor windows in the east elevation of House 3 shall be permanently glazed in obscure glass.

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

11. No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the existing and proposed levels and contours to be formed, showing the relationship of the proposed mounding to existing vegetation and surrounding landform.

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

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 the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of protected trees shall be fenced with chestnut pale fencing to a minimum height of one metre staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

14. There shall be no tipping or deposition of materials within the area fenced under condition 13 above without the prior written authorisation of the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

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

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

16. No development shall take place until the applicant has submitted to and had approved by the Local Planning Authority a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 to secure more specific construction vehicle routes and times of vehicular movements to and from the site.

Reason: In the interests of highway safety and the amenity of the properties adjoining the site.

Informatives:

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](http://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: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk).

## **2. PLANNING AND OTHER APPEALS**

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/delegated</b>
9/2007/1283	Mickleover	Etwall	Allowed	Delegated
9/2008/0701	Bretby	Repton	Allowed	Delegated
9/2008/0738	Etwall	Etwall	Dismissed	Delegated



# Appeal Decision

Site visit made on 9 October 2008

by **Alison Clack BA(Hons) BTP MRTPI MBA**

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

Decision date:  
29 December 2008

## Appeal Ref: APP/F1040/A/08/2072660

### 11 and 12 Edmonds Square, Mickleover, Derby, DE3 0DU

- 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 Dr D Thomas against the decision of South Derbyshire District Council.
- The application (Ref 9/2007/1283/O), dated 2 November 2007, was refused by notice dated 15 April 2008.
- The development proposed is a dwelling, detached garage and access.

### Procedural Matters

1. The appeal is in outline with all matters except access and layout reserved.
2. The application was amended whilst being considered by the Council. I have dealt with the appeal on the basis of the amended drawing No C874/2 Rev C.

### Decision

3. I allow the appeal and grant planning permission for a dwelling, detached garage and access at 11 and 12 Edmonds Square, Mickleover, Derby, DE3 0DU in accordance with the terms of the application Ref. 9/2007/1283/O dated 2 November 2007, and the amended plans submitted therewith, subject to the following conditions:
  - 1) Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
  - 2) Application for approval of the reserved matters shall be made to the local planning authority within three years from the date of this permission.
  - 3) The development hereby permitted shall begin within two years from the date of approval of the last of the reserved matters to be approved.
  - 4) No development shall take place until details of the tree protection measures have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be in place prior to works starting on site and retained as such until the properties are completed.

- 5) No development shall take place until details of the construction method of the driveway within the area of tree protection have been submitted and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 6) The area within the visibility site lines, with a 2 metre sight-line set-back, shall be kept free of vegetation or any other obstruction above 600 mm.

### Reasons

4. The appeal site forms part of the garden area of 11 and 12 Edmonds Square, a pair of semi-detached properties that have previously been converted to form a single dwelling. The site fronts onto Hospital Lane and contains a large oak tree sited close to the boundary with the road. There is also an ash tree in an adjoining garden area to the southwest. A Tree Preservation Order protects both trees.
5. The proposed dwelling would be sited alongside the Hospital Lane frontage, served by a new access taken off Hospital Lane with a detached garage located to the north of the site. The Council have raised no objection to the principle of the development, the proposed access or the effect of the development on the protected trees. From what I saw at my site visit I also consider that the proposal is acceptable in these respects, and the main issue in this case is the effect of the proposal on the living conditions of occupiers of 10 Hospital Lane.
6. The proposed dwelling would be sited broadly in line with the side extension of the dwelling at No. 10. The neighbouring property has glazed doors at ground floor level facing the appeal site. These serve a habitable living area, although other windows also provide light to and outlook from this area. Because of the juxtaposition of the properties, the distance separation and the intervening boundary fencing, I do not consider that a dwelling in the position proposed would appear either prominent or overbearing or result in any significant loss of light to ground or first floor rooms in the adjacent dwelling. Similarly, because of the relative window positions, the proposal would not in my view cause any overlooking or loss of privacy.
7. The Council states that the proposal fails to achieve a separation distance of 12 metres as set out in the Council's Supplementary Planning Guidance (SPG) entitled *Housing Design and Layout*. The document indicates that in order to protect the occupiers of existing dwellings from overlooking and to protect privacy, dwellings should not fall within the 12-metre distance guideline stated between a dining room and blank elevation. However, because the affected side-facing window is a secondary window I do not consider that the standard referred to for primary windows is appropriate in this instance. I am mindful of the comments made by the occupiers of No 10 regarding the positioning of the boundary fence. However, this is not a planning matter and I have dealt with the appeal before me solely on its planning merits.
8. Accordingly, for the reasons given above I find no conflict with policy HP11 of the South Derbyshire Local Plan or the guidance set out in the Council's SPG which together seek to protect residential amenity. The Council has suggested



# Appeal Decision

Site visit made on 21 October 2008

by **P Bentham-Hill** BA MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
17 December 2008

## Appeal Ref: APP/F1040/A/08/2085476

### Bretby Lodge, Bretby Park, Bretby, Derbyshire DE15 0QQ

- 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 M Taylor-Dawes against the decision of South Derbyshire District Council.
- The application Ref 9/2008/0701/FH, dated 19 June 2008, was refused by notice dated 22 August 2008.
- The development proposed is the erection of an orangery.

## Decision

1. I allow the appeal, and grant planning permission for the erection of an orangery at Bretby Lodge, Bretby Park, Bretby, Derbyshire DE15 0QQ in accordance with the terms of the application, Ref 9/2008/0701/FH, dated 19 June 2008, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) No development shall take place until details, specifications and, where necessary, samples of the materials to be used in the construction of the external surfaces of the plinth of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 3) No development shall take place until large scale drawings (to a minimum scale of 1:10) of the external joinery, including horizontal and vertical sections, the precise construction method of openings and cill and lintel details have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved drawings.
  - 4) The external joinery shall be in timber and painted to the colour specified on drawing No. 654-03, unless otherwise agreed in writing with the local planning authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the local planning authority.
  - 5) No development shall take place until the means and details of the proposed rainwater discharge have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

## **Main issues**

2. I consider the main issues in this appeal to be the effect of the proposed development on the setting of the Grade II\* Listed Building, the surrounding Grade II registered historic park and the character and appearance of the Bretby Conservation Area.

## **Reasons**

3. As the Council has acknowledged, the proposed orangery is appropriate in scale, form and design in terms of its relationship to Bretby Lodge. It would thus be an acceptable and subordinate addition to the existing dwelling, tending to complement the garage wing on its north-western flank. The tree screen to the rear and the landscaping along the south-western boundary of the appeal site, together with the contours of the adjacent parkland will render it relatively inconspicuous in the wider context.
4. The character and appearance of both the conservation area and the historic park, together with the setting of Bretby Hall, will not be materially affected by the proposed development. These features are strongly influenced by the presence of the recent residential development at Carnarvon Court and Bretby Lodge itself. The proposed orangery represents a relatively small increase in the existing built form which will not alter the domestic character of the immediate area or impinge on its parkland setting.
5. Thus, whilst the proposal will not necessarily enhance the existing character or appearance of the conservation area, it will not have a harmful effect on either of these attributes. To the extent that it will have a relatively neutral effect, I conclude that it will preserve both the character and appearance of the Bretby Conservation Area and is in accord with the advice in PPG15 and the objectives of Environment Policy 12 of the South Derbyshire Local Plan.
6. Similarly, the effect on the character, appearance and setting of the registered historic park will be minimal and result in no adverse effect. Its principal feature in this area is the wide expanse of lawn in front of the Hall which will be unaffected by the small scale of the development in the adjacent residential curtilage. Accordingly, I consider that the proposal is in accord with Environment Policy 15 of the Local Plan.
7. Whilst the proposed orangery will extend the built form of Bretby Lodge further forward of the front elevation of the Hall, it will be within the established curtilage of the Lodge and will not intrude into the wider expanse of lawn which forms its principal setting. From the south west, where it will be seen in the same field of view as the Hall, the orangery will appear as a subordinate element of Bretby Lodge, partly hidden by the land form. The hedge and trees on the north-eastern boundary of the Lodge will prevent the orangery intruding on any view of the Hall from that direction. Accordingly, I conclude that the proposed development will not have a harmful effect on the setting of the Grade II\* Listed Building and will therefore be in accord with Environment Policy 13 of the South Derbyshire Local Plan.

*P Bentham-Hill*

INSPECTOR



a number of conditions in addition to the standard reserved matters conditions. These relate to matters of detail such as materials, boundary treatment and levels, which will be considered at the reserved matters stage and are therefore unnecessary. As I have set out in my decision details of the amended plan a condition to this effect is also unnecessary. I do not consider that there are any exceptional circumstances in this case to warrant the removal of permitted development rights and the condition in relation to the relocation of the lamppost is also unreasonable as this is a matter for the Highway Authority. As details of the proposed access shown on the submitted drawings are acceptable I consider that only the suggested condition regarding maintaining site lines is necessary. Given the nature of the road I consider that a 2-metre set back is sufficient. The other suggested conditions are either unjustified or unreasonable. In order to ensure that the trees are protected during construction I agree with the appellant that a condition requesting details of tree protection measures and construction of the driveway are attached.

*Alison Clack*  
INSPECTOR



# Appeal Decision

Site visit made on 24 November 2008

by **Paul V Morris** DipTP MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**9 December 2008**

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## Appeal Ref: APP/F1040/A/08/2085971 115 Springfield Road, Etwall DE65 6LA

- 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 Ottey against the decision of South Derbyshire District Council.
- The application Ref 9/2008/0738/FM, dated 3 July 2008, was refused by notice dated 4 September 2008.
- The development proposed is the erection of a detached dwelling and single garage.

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### Decision

1. The appeal is dismissed.

### Reasons

2. The adopted South Derbyshire Local Plan includes Housing Policy 5 which requires that development be in keeping with the scale and character of the settlement. This is supported by supplementary planning guidance 'Housing Design and Layout'.
  3. However, Housing Policy 5 seems to me to give no direct guidance to this appeal. The considerations of scale and character seem to be more concerned with significant additions to existing village development. As for the supplementary planning guidance, it says that where new housing is proposed next to existing dwellings, the advice has particular regard to the protection of the amenity of the people who already live there. In this connection, the only detailed guidance put forward relates to considerations of privacy and proximity to existing dwellings.
  4. However, Environment Policy 8, as referred to in the justification for Housing Policy 5, says that open spaces and gaps which make a valuable contribution to the character or environmental quality of individual villages and settlements will be safeguarded from development. This provides a more appropriate context for the main issue which is the effect of the development on the street scene.
  5. As the Council point out, the appeal site is a corner site within a post-war estate. I concur that the estate has a unity of design, and this has largely survived due to the lack of significant additional intrusive development. The open and spacious appearance of the estate is a dominant attribute of its overall character.
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6. At present, the open area beside no.115 matches that on the opposite corner of Springfield Road, and the two areas together make an important contribution to the spacious appearance of this part of the estate. The appeal proposal would substantially reduce that contribution and appear unbalanced and overcrowded.
7. This part of Springfield Road is of some importance as it is one of the two entrances to the estate from the surrounding roads. Coming into the estate from the spur off Eggington Road, the appeal development would block the openness, and the view would be of the rear of the house which would occupy the site almost to the edge of the footway. To my mind, it would spoil the role and appearance of this part of Springfield Road as the entrance to, and also the exit from, the estate, contrary to Environment Policy 8 as related to Housing Policy 5.
8. Although not a central point of the issue, I also find that the design of the front elevation of the house with its prominent front gable on a detached dwelling would not fit well with the simple design of the nearby houses on the estate, and would only increase the intrusive nature of the development overall.
9. I appreciate that this housing development as a whole does not have any special status, for instance as a Conservation Area, but, to my mind, this should not deflect from the aim of safeguarding the appearance of the street scene for the benefit of the public at large, particularly as the estate has a noticeable unity of design.
10. I looked at the examples of infill development to which the appellant drew attention. The housing at the bottom of Windmill Road seemed to be an unobjectionable development of several houses in the same pattern as those nearby, and, in any event, does not form part of the Springfield Road estate. The backland development off Belfield Road and the house at 32A Belfield Road also do not form part of the Springfield Road estate, and they bear no similarity to the circumstances of the appeal development.
11. I fully appreciate the emphasis of the guidance in Planning Policy Statements 1 and 3 about the need for housing and the maximisation of the use of urban land but, at the same time, regard has to be had to safeguarding and improving the urban environment. In this case, I consider that the harmful effect on the street scene outweighs the use of this land within the settlement for an additional house.
12. I have taken account of the conditions put forward by the Council, but they would not overcome the objections to the development or otherwise alter the balance of my decision. The appeal therefore fails.

*Paul V Morris*

Inspector