

07/03/2006

Item 1.6**Reg. No.** 9/2005/1453/M**Applicant:**R Hewitt
Dunnsmoor Farm
Dunnsmoor Lane
Hartshorne
Swadlincote
Derbyshire
DE117AP**Agent:**Sansom Clarke (SMC)
Barns Heath Farm
Appleby Magna
Swadlincote
Derbyshire
DE127AJ**Proposal:** **Change of use of part of farm to golfercross facility at
Dunnsmoor Farm Dunnsmoor Lane Hartshorne Swadlincote****Ward:** **Hartshorne & Ticknall****Valid Date:** 09/12/2005**Site Description**

The site occupies a large swathe of gently undulating open farmland roughly rectangular in shape, with its northern side bounded by Dunnsmoor Lane for some 620m and its western boundary by Sandcliffe Road for some 200m. Dunnsmoor Farm is on the eastern edge of the site.

Proposal

The proposal is a farm diversification project utilizing some 15 hectares of land adjacent to the farmstead.

It is proposed to grass the entire site to provide a Golfercross course. Golfercross is a new outdoor activity originating from New Zealand. It differs from golf in that the ball is oval shaped and is hit into nets rather than holes. The course, unlike a golf course, does not require permanent landscape features such as mounds, bunkers, greens etc. It is intended that some temporary, moveable obstacles will be introduced around the course by placing large tubs of shrub planting or possibly groups of round straw bales on pallets, which can be moved around with ease. This is to ensure that the teeing off areas and goal nets are placed in the best possible positions, according to play experience, and will provide a test bed for the future design of permanent landscape features.

Two of the three enclosures (both adjoining the farmstead) have already been sown to grass with the intention that if planning permission is granted, the grass will be sufficiently established to be playable by the spring of this year. It is then intended to grass down the remaining enclosure (with frontage to both Sandcliffe Road and Dunnsmoor Lane) in the autumn, so that it can become playable by Summer 2007. If this is not possible, then the seeding down will be delayed

until the following autumn, becoming playable by Summer 2008. At this point it is likely that the entire layout of the course will be changed, both to accommodate the additional acreage and to take account of the playing experience in the interim. It is also proposed to introduce a short course and a long course at this time, sharing some of the tees and goals, to provide a greater choice for the playing public.

Two course layouts have been submitted, one for the smaller initial phase and the other for the final extended phase. Both layouts would have nine tees and nets. The nets, supported by a frame, would be 3m high by 1.9m wide. The arrangement of the courses is of an informal nature and can be altered to different configurations.

A small traditional farm building adjacent to the farmhouse is proposed for the facilities building which requires only minor alterations to the exterior. Thirty-five parking spaces are proposed on the east side of the building and access would be from the existing farm entrance. It is proposed to open the "pay and play" course to the public in April/May, by which time the alteration works to the building to create the permanent facility are unlikely to have been completed. The temporary siting of two portacabins is therefore proposed on a section of the proposed car park, which would be used in the short term until the new permanent facility is ready for use.

The proposal would provide informal recreation for the general public and for the more serious sports person. There would be no formal membership and all the kit would be provided so that anyone interested can turn up and play.

Applicants' supporting information

The following statement has been provided by the course designer to address concerns raised about balls overshooting the site boundary into the public highway:

"There are three important safety considerations concerning GolfCross:

- *GolfCross Balls do not travel as far as conventional ones (typically 80%)*
- *The object of the game is to deliver the ball to within 'lobbing range' of the net, i.e. within the 'Yard' – not to score a hole in one by aiming straight at it. The last shot needs to be a gentle, lob into the net, which can be done from a distance without fear of significant 'overshoot'.*
- *The aerodynamic design of the ball makes it impossible to hook or slice, when played in the upright position.*

Despite these advantageous characteristics, within the GolfCross course design we adopt the basic parameters of the minimum requirements used within traditional golf course layouts. Consequently bigger safety margins than those universally accepted for conventional golf courses are automatically built in. When there are 'hazards' to the side of a teeing area or fairway, and/or to the rear of a golf green, the 'safe zone allowances' used as standards for conventional golf courses are:

1. *For a fairway, a 30% sideways tolerance is greatly allowed, so for instance a 150-yard shot would require a 45-yard allowance to the side of the fairway.*
2. *For an 'overshoot' of a green 50 yards is allowed.*

The plans prepared reflect the general layout of the goals/yards and the general direction of the fairways, but on installation these parameters would be strictly adhered to and should any criteria become compromised, the length and direction of that goal will be changed to comply.

The main area of concern seems to be with the area to the West of the course, near to the housing along Sandcliffe Road. The tolerance detailed above have been used in that area, and so problems should not be experienced by local residents."

Planning History

Planning permission to covert the farm outbuildings to office use was granted in August 2002.

Responses to Consultations

Hartshorne Parish Council makes the following comments:

- Assurance are needed that if the venture fails the land and buildings will revert back to agricultural use
- There are concerns about the number of parking spaces
- The width of Dunnsmoor Road is restricted
- There should be the provision of a sufficiently high fence to protect pedestrians and vehicles.

The County Highway Authority comments that vehicle speed readings on Dunnsmoor Lane have revealed that an access with appropriate standards of visibility can be provided within controlled land. It therefore raises no objections subject to various conditions in the interests of highway safety.

The Environmental Protection Manager recommends that opening hours be restricted to 0800 at all times. He is concerned that evening use may affect local residents and recommends that last admission is 7pm.

The Leisure Services Manager comments that the activity would provide a useful additional facility in the District. His only concern is that users of the highway and footpath are adequately protected.

Sport England East Midlands supports the principle of farm diversification for sporting activities particularly if they are sited in an easily accessible location.

The National Forest Company raises no objections.

The Environment Agency raises no objections subject to conditions to safeguard the water environment.

Responses to Publicity

Fourteen letters of objection and comment have been received which are summarised as follows:

- Any perimeter nets would be unsightly
- There would be a loss of privacy for residents living opposite the course
- Disturbance would be caused to local residents
- It would increase traffic on already inadequate roads particularly the Dunnsmoor Lane/Sandcliffe Road junction
- There would be possible danger from balls straying beyond the boundary onto the highway

- Any flood lighting would be unacceptable
- It would result in the suburbanisation of the countryside and may open the way for further more extensive development to the detriment of its location.

A further letter of objection in response to additional information received sets out similar concerns to those listed above.

Development Plan Policies

The relevant policies are:

RSS8: Policy 6, 24 and 32

Joint Structure Plan: Leisure and Tourism Policy 1 and 2

Local Plan: Environment Policy 1, Recreation and Tourism Policy 1

Planning Considerations

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

- Visual impact on the appearance of the countryside
- An appropriate location for the proposed use

Planning Assessment

Government policy (PPS7) recognises that farm diversification into non-agricultural activities is vital to the continuing viability of many farm enterprises. Development Plan policies seek to ensure that leisure and tourism facilities are capable of being served by a range of transport modes, are close to centres of population, and are accessible to and provide opportunities for greater participation by all sections of the population. In general facilities are acceptable provided their impact on other land uses and local communities is acceptable and that the volume of traffic likely to be generated is in keeping with the capacity of the local transport network.

Due to the extent of land involved, the proposed use cannot be located in an urban area, which leaves an appropriate rural location as the only feasible option. The proposed use and the location of the site offer a number of benefits in terms of achieving sustainable development objectives. The use itself is designed to be accommodated on relatively unprepared ground, other than it being grassed, and, unlike the manicured landscape of a normal golf course, would assimilate more readily into the surrounding rural landscape. In addition, the site is in close proximity to a large urban population and therefore reliance on the private car to access it would be reduced or at least shortened trips would be involved. The proposal would add to the recreational portfolio of Swadlincote and improve the opportunity for healthy outdoor activity in the countryside and sought by development plan policy.

The applicant has satisfactorily addressed concerns raised about stray balls and the course layout can be easily adjusted if the need arises. Due to the low-key nature of the use, the amenities of local residents are unlikely to be unduly affected in terms of disturbance or loss of privacy. On the advice of the Highway Authority, the development would not be detrimental to highway safety.

Any possible future development of the site for whatever use (none is envisaged at this stage) would need to be considered at the appropriate time and is not for consideration here.

No details have been submitted for the artificial illumination of the course but for the avoidance of doubt a relevant condition is recommended to control this.

In view of the above, the proposal should be supported.

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 development shall commence on site until samples of materials for the external surfaces of the buildings to be converted have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.
Reason: To ensure the materials are appropriate to safeguard the appearance of the countryside.
3. The two portable buildings hereby approved shall be removed from the site within 2 years from the date of this planning permission.
Reason: This type of building due to its design and appearance would not be appropriate in the countryside and have only been allowed for a temporary period due to the special circumstances of the case.
4. No artificial light shall be used to illuminate the course hereby approved.
Reason: To safeguard the appearance of the countryside and the amenities of local residents
5. Notwithstanding the details submitted, the formation of the car park shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of tree planting, which shall include indications of all existing trees and hedgerows.
Reason: To mitigate any adverse visual impact the car park may have in this rural location.
6. All planting associated with condition 5 shall be carried out in the first planting and seeding season following the formation of the car park hereby approved 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: To safeguard the appearance of the countryside.
7. A tree planting scheme for the course shall be submitted to and approved in writing by the Local Planning Authority before 1st September 2009.

Reason: To enhance the appearance of the countryside which is within the National Forest.

8. Further to conditions 5 and 7 above, tree planting details shall include planting plans, written specifications including cultivation and other operations associated with tree establishment; schedules of trees (noting species, plant sizes and proposed numbers/densities where appropriate).

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

9. All approved tree planting in connection with condition 7 shall be carried out in the first planting and seeding seasons following the approval of the tree planting details and any trees which within a period of five years from the planting date 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: To enhance the appearance of the countryside which is within the National Forest.

10. The opening hours of the facility shall be restricted to 8am at all times and the last admission shall be 7pm at all times.

Reason: To safeguard the amenities of local residents.

11. No tipping of material shall occur on the site.

Reason: To prevent pollution of the water environment.

12. There shall be no buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of either bank of the watercourse which crosses the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: To maintain access to the watercourse for maintenance or improvements and provide for overland flood flows.

13. No development shall commence on site in connection with this approval until a scheme for the provision of foul drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out before the building is brought into use.

Reason: To prevent pollution of the water environment.

14. No development shall take place on site in connection with this approval until access to the site has been constructed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The details shall include radii of 10m and visibility sightlines extending from a point 4.5m back from the Dunsmoor Lane carriageway edge, measured along the centreline of the access, for a distance of 90m in each direction measured along the nearside carriageway edge of Dunsmoor Lane, or such other alternative dimensions as may subsequently be agreed in writing by the Local Planning Authority. The land in advance of the visibility sightlines shall be maintained permanently free of all obstructions above ground level.

Reason: In the interests of highway safety.

15. The development shall not be taken into use until the car parking and manoeuvring space has been provided, surfaced and marked out in accordance with the scheme shown on submitted drawing no. H/258/001, or such other scheme as may be approved in writing by the Local Planning Authority. Thereafter the approved facilities shall be maintained free of any impediment to their designated use.

Reason: In the interests of highway safety.

16. The layout of the course shall comply with the course layout safety criteria as defined in the Golf Cross letter received by the Local Planning Authority on 6th February 2006.

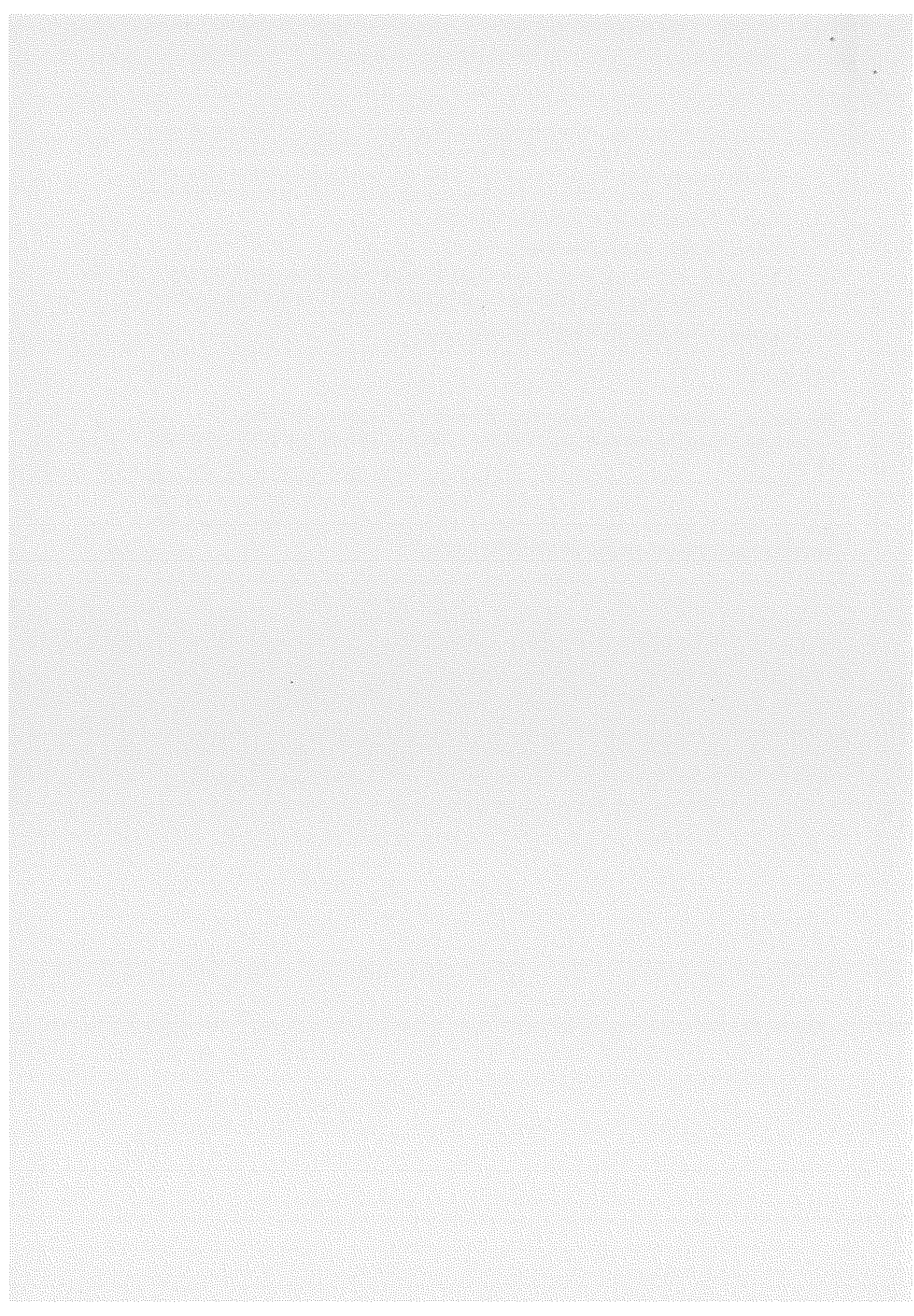
Reason: In the interests of highway safety.

Informatives:

The applicant is made aware of the contents of the letter from Central Networks.

To note and act upon as necessary the comments of the Environment Agency (see attached letter).

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.



2. PLANNING AND OTHER APPEALS

Reference	Place	Ward	Result
9/2004/1395	Burton Road, Egginton	Etwall	Dismissed
9/2004/1364	Rosliston Road, Drakelow	Linton	Dismissed



Appeal Decision

Hearing held on 9 February 2006

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date

Appeal Ref: APP/F1040/A/05/1181438

Blue Post Caravan Site, Burton Road, Egginton DE65 6HA

- 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 J Rook against the decision of South Derbyshire District Council.
- The application Ref 9/2004/1395/U, dated 18 October 2004, was refused by notice dated 11 February 2005.
- The development proposed, as described in the planning application, is extension of existing caravan site.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. Alan Boyland BEng(Hons) DipTP CEng MICE MIHT MRTPI has been appointed as an Assisting Inspector in respect of flooding and highway matters. I agree with his conclusions, which are set out in paragraphs 20 to 33 below.

The Site and the Proposal

2. The appeal site comprises an authorised gypsy caravan site and a larger area of adjacent land which was formerly a neglected farmstead. The original gypsy site was granted a conditional planning permission on appeal in 1990. The permission was personal and time limited and no more than three caravans were to be stationed on the site at any one time. As a result of appeals in 2003 occupation is now only restricted to persons defined as gypsies. Conditions also restrict the number of caravans to three, remove permitted development rights for means of enclosure and other minor operations, require landscaping and an approved colour scheme for the caravans.
3. The current proposal seeks to extend the authorised site in order to accommodate Mr Rook's extended family. The proposed layout provides for three static and three touring caravans. An existing amenity block would be retained. By the time the appeal application was made, most of the old farm buildings had been cleared and the extended site had been hardsurfaced and enclosed by a brick wall of varying height. At the time of the hearing work was progressing on renovating a retained barn and Mrs Rook explained that it would be a play room for the children.

Gypsy Status

4. Mr Rook and his family have been known to the Derbyshire Gypsy Liaison Group for a number of years. The Group confirmed that the family are from a traditional traveller community and that they had travelled and lived within South Derbyshire for a number of
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years. On this basis the Council did not dispute their gypsy status. I heard that in recent times Mr and Mrs Rook have not been able to travel so much but this has been because of family commitments. In particular, Mr Rook now helps his sister with the 24 hour care of their father. On the available information I consider that the appellant and his family fall within the Circular 01/2006 definition of gypsies and travellers.

Main Issues

5. I consider there are four main issues:
 - whether there is a need for gypsy sites generally and for the appellant in particular,
 - the effect of the proposal on the character and appearance of the site and the surrounding area,
 - its effect on the risk to the safety of occupiers of the extended site from flooding and whether the development would increase the risk of flooding elsewhere,
 - the effect of the proposal on the safety and convenience of road users.

Planning Policy

6. The development plan for the area consists of the Regional Spatial Strategy for the East Midlands (RSS8), the Derby and Derbyshire Joint Structure Plan (the SP) and the South Derbyshire Local Plan (the LP).
7. In RSS8 Policy 1 sets out core objectives, including the need to address social inclusion, improve the health of residents, protect the environment and reduce the risk of damage from flooding. Policy 3 identifies a range of sustainability criteria for assessing the suitability of land for development. Policy 31 has the objective of enhancing the historic environment in recognition of its own intrinsic value and its contribution to the quality of life. Policy 36 provides a regional approach to managing flood risk.
8. Gypsy caravan sites are permitted under LP Housing Policy 15 where they meet criteria concerned with their location, protection of the environment, achieving reasonable accessibility to services and facilities and an adequate means of vehicle and pedestrian access. These criteria are consistent with those in SP Housing Policy 8. The statutory requirement to have special regard to the desirability of preserving the setting of a listed building is reflected in SP Environment Policy 10 and LP Environment Policy 13. Proposals affecting a conservation area, including its setting, are subject to SP Environment Policy 9 and LP Environment Policy 12. SP General Development Strategy Policy 3 sets out general criteria for the location and density of development. More specifically, control on development in the countryside is exercised through SP General Development Strategy Policy 4 and LP Environment Policy 1. An aim of LP Environment Policy 2 is to control development to minimise the risks from flooding to the development and to people and property elsewhere.
9. The emerging Replacement South Derbyshire Local Plan, referred to in the reasons for refusal, has been withdrawn and no longer has any weight.
10. When the Council determined the application, national planning policy on gypsy sites was set out in Circular 1/94. This document was replaced by Circular 01/2006 at the beginning of February 2006. The appeal proposal was discussed within the context of the new guidance at the hearing.

Reasons

Need

11. An assessment of the accommodation needs of gypsies and travellers is to be undertaken on behalf of the local authorities in Derbyshire and other interested organisations once funding arrangements have been secured. Therefore at the present time reliance has to be placed on indicators such as the bi-annual counts and information on unauthorised sites and illegal encampments, planning applications and occupation of authorised sites. All the evidence confirms that there is a continuing need for additional gypsy sites in the district, a consideration that lends support to the proposal.
12. As explained at the hearing, Mr Rook wishes to use the extra land he has purchased to provide for the long term needs of his extended family. Thus the enlarged Blue Post Caravan site would be the home for three families: Mr and Mrs Rook and their 4 children Dominic aged 16, Tyrone aged 11, Delilah aged 8 and Sarah Ann who is 27 and expecting a baby; Mr and Mrs Rook's son Jacob, his wife and baby daughter; Mr Rook's father and his carer. It would enable them to move from a private site in Burton on Trent where they have 'doubled up'. The larger site would allow for a more spacious layout and for the additional caravans to accommodate the growing families. According to Mrs Rook, they have been waiting to get back to the site before enrolling their younger two children at secondary school.
13. From what I heard, the site in Burton is overcrowded and hence the appellant's extended family has a need for an additional site. I consider that the proposal would promote private gypsy site provision and give the opportunity for the family to have access to suitable accommodation, education and welfare services. In this way it would meet objectives in Policy 1 of RSS8 and in Circular 01/2006. However, as proposed, the site is generous in size and in that respect it would more than fulfil the accommodation need.

Character and appearance

14. The appeal site is in the countryside where the rural landscape is generally flat, low lying and open. It is also sensitively located within the setting of the Trent and Mersey Canal Conservation Area (designated in 1994) and the setting of the Grade II listed buildings High Bridge and High Bridge House. The boundary of the Conservation Area, to the west of the site, is tightly drawn but the designation statement emphasises the importance of considering the impact on the canal setting of any proposed development within the visual envelope. The statement also draws attention to the late 18th century canal structures and buildings. Their characteristic and uniform construction and the use of local building materials impart a strong visual cohesion in keeping with the locality. High Bridge, a modest curving structure of red brick and stone dressings, is typical of the canal architecture, whilst High Bridge House is distinguished as a fine example of a canal lengthman's house. They form an attractive and harmonious composition with the canal, the towpath and the moorings.
15. As a starting point it is helpful to refer back the previous appeal decisions for the smaller, original site. In 1990 the Inspector concluded that the caravans, associated structures and parking had an undesirable visual impact on the setting of the listed buildings, albeit not from every direction. He regarded this as a strong objection to retention of the development. In 2003 the Inspector concluded that without mitigating measures the

caravans would appear obtrusive in the historic working context of the Conservation Area and listed buildings.

16. The proposed site would, overall, be about three times the size of the original caravan site. Rather than being an L shape, tucked between the canal towpath and the track, High Bridge Lane, it would extend out into the surrounding landscape. In addition to the six caravans, there would be parked vehicles, the converted barn and amenity block, extensive hard surfaces and domestic paraphernalia. The residential site would be clearly visible from several viewpoints - from High Bridge and the steps leading to the towpath, from the canal towpath itself especially when approaching from the north east and from High Bridge Lane. I consider the modern structures and alien materials would be a stark and visually harmful contrast to the coherent forms and historic context of the Conservation Area and listed buildings. The development would be considerably more intrusive than that permitted in 2003.
17. In the previous two appeal decisions boundary treatment and planting were identified as measures to lessen the visual impact. There may well have been the prospect of successful mitigation with a smaller, differently shaped site and number of caravans. However, with the current proposal, the length of the boundaries would be much increased and the rectangular shaped body of the site would not tie in well with the landforms along the canal. I am unable to see how walls/fencing and planting around and within the site could lead to the development being sympathetic to its historic setting. More specifically, from the canal towpath the definition of a sizeable residential caravan site would remain and the static caravans at least would continue to be seen over boundary features. From the elevated position on the bridge views across the extended residential site would also remain, albeit in time planting could help to soften its appearance. The site would not be capable of being sympathetically assimilated into its surroundings and hence the proposal would not satisfy requirements of SP Housing Policy 8 and LP Housing Policy 15.
18. The Appellant has argued that the replacement of dilapidated farm buildings and inappropriate boundary walling with a well laid out and landscaped caravan site would enhance the appearance of the site and its setting. This view is comparable to the general point made in Circular 01/2006 that in some cases a gypsy site can be seen as positively enhancing the environment. In this case, although I have not seen the site as it used to be, I would expect that a small group of old farm buildings even in a neglected state would not be intrusive within a farming landscape. I do not attach much weight to this matter.
19. In my view the proposed development would be visually unrelated to the historic canal buildings and structures and the character of the waterway. As such it would be unduly dominant and intrusive in its surroundings. Therefore I conclude it would detract harmfully from the setting of the listed buildings, fail to preserve the character and appearance of the Conservation Area and be harmful to the appearance of the rural landscape. The proposal would not comply with those development plan policies which seek to protect the historic environment and the quality of the countryside, namely Policy 31 of RSS8, SP Environment Policies 9 and 10, LP Environment Policies 12 and 13, SP General Development Strategy Policy 4 and LP Environment Policy 1.

Flooding

20. It is undisputed that the site lies within the indicative 1:100 year flood plain, being at risk from fluvial flooding from the Rivers Trent and Dove and various tributaries. The Environment Agency (EA) further indicates that it is identified in its flood zone maps as being within a Zone 3 flood risk area. The development would thus not meet the requirement in criterion 7 of SP General Development Strategy Policy 3 for new development to be located way from hazardous areas including those subject to flooding. It would also conflict with the national policy advice in PPG 25 (Development and Flood Risk) that undeveloped and sparsely developed areas within Zone 3 (high risk) are generally not suitable for residential development unless a particular location is essential and, in particular, that caravan sites should generally not be located in these areas.
21. PPG 25 stresses the need for applicants to submit flood risk assessments (FRAs) with applications for sites at risk of flooding. It indicates that these form an essential element in the overall assessment of the viability and acceptability of proposals. No such assessment has been submitted in this instance.
22. A number of photographs that have been submitted show the site itself and nearby areas under flood in recent years. The depth on the site appears to be minimal, but the levels and return period of the flood events are not known. It seems that there are studies under way on behalf of the EA to predict the 1 in 100 year flood levels and flow velocities in this area, but they have not yet yielded any conclusive results relating to this site.
23. Since the photographs of flooding on the site were taken it has been mostly surrounded by a brick wall. The only breaks in its continuity are the gateway, which is at a higher level than the surrounding area being part way up the incline to the canal bridge, and a length of close boarded fence adjacent to the canal embankment. Most of the wall is a metre high and 225mm thick with brick piers at intervals, and it appeared to me to be of sound construction. I judge that it would resist shallow flooding but, as the site apparently lies on river gravel beds, flood water might percolate from beneath the ground.
24. It seems to me that any occupants of caravans on the site would be in little danger in a shallow flooding event. Water would rise slowly, and would not be deep or fast-flowing, and there would be a dry escape route via the gate to the canal bridge and beyond.
25. However, in the absence of a FRA and definitive data from the EA I do not know the potential level of flood water here in a 1 in 100 year flood. If it were sufficient to overtop the wall the water level within the site would rise suddenly to a depth sufficient to pose a significant risk to the occupants. I was assured by the appellant that the foundations of the wall are deep, but I do not have enough information to assess its stability against overturning under the pressure of deep water on one side. If that were to happen there would also be a sudden influx of water, which could be flowing, adding to the risk.
26. It was suggested for the appellant that the extended site would not increase the number of people on the site and thereby at risk. However, the evidence discussed above indicates that the need for this development rests in part on the fact that the permitted 3 caravans could not adequately accommodate Mr Rook's extended family. That implies an immediate increase in numbers here and, it seems to me, there would be the potential for further increases even if the site were limited to six caravans.

27. The EA has expressed concern about the effect of the proposed development on flood storage capacity as any reduction may increase flood risks elsewhere. However, the existing buildings on the site have modest footprints and, I understand, would remain irrespective of the outcome of this appeal, as would the wall. Caravans on the site would have little, if any, effect on flood storage. It was suggested that the caravan standings could be raised to reduce the effects of flooding, but this would increase the visual impact of the development.
28. In the absence of a FRA I must apply the precautionary principle and conclude that the occupiers of the extended site would be at risk from flooding. As it has not been demonstrated that the development would be protected from flooding, the proposal would conflict with LP Environment Policy 2 clause A. However, I find that the development as proposed would not significantly increase the risk of flooding elsewhere.

Highway Safety

29. Access to the site is via High Bridge Lane, over the canal bridge to the A38. The lane mainly serves High Bridge House, from which I understand a business involving some commercial traffic operates, and the appeal site. It is also used for access to the railway, river and fishing pools beyond. The canal bridge is sharply humped with very restricted forward visibility. Vehicle speeds here are necessarily low so there is little danger, but the inability to see oncoming vehicles would necessitate one vehicle to reverse should two meet there. The probability of this occurring would increase if there were any additional traffic here.
30. The A38 is a Trunk Road dual carriageway carrying heavy traffic volumes with high vehicle speeds. Along the 4.5km length between the A50 (Toyota) junction to the north east and the Clay Mills junction to the south west there is a significant number of private accesses and several lay-bys. The accident records I have seen show a substantial number of accidents along this length, but none at or close to the junction with High Bridge Lane. This has good visibility and acceleration and deceleration lanes, but immediately to either side of the junction are private accesses to moorings and parking areas by the canal. There is the potential for conflict between vehicles entering or leaving those accesses and those using the junction.
31. The acceleration and deceleration lanes are not sufficiently long to enable vehicles to slow from or accelerate to the prevailing traffic speeds entirely clear of the through lanes. I found that the volume and speed of traffic on the main road still make it difficult to turn into the lane or join the through traffic safely, even in a solo car. For a vehicle towing a caravan it would be more so, however carefully it were driven, but I accept that this would not be a frequent occurrence. While I note the Highways Agency's view that the junction operates satisfactorily, I consider that any increase in the traffic using it poses a risk to road safety.
32. The Highways Agency raised no objection to the appeal proposal on the basis that there was not likely to be additional traffic generated by the development. It seems to me that this assumption is unfounded. As indicated above, the extended site would be likely to accommodate more people than the permitted 3 caravans. Even though a number of them are children, their educational and social needs would often involve the need to be driven to and from the site. As they grow up they might acquire their own vehicles (indeed

Dominic is already close to the minimum driving age), adding to the potential traffic. Also it has to be borne in mind that the occupancy of the site could change, bringing an increased number of adults, vehicles and movements.

33. I have come to the conclusion on this issue that the proposal would be harmful to the safety and convenience of road users. It would thus be contrary to criterion 4 of SP Housing Policy 8, which requires sites for gypsies and travellers to have good access to the main road network without causing unacceptable traffic or road safety problems, and to LP Housing Policy 15(vi) in that access to the site is not adequate.

Balancing Exercise

34. Circular 01/2006 emphasises the commitment to increasing the provision of gypsy and traveller sites in order to address existing under-provision. South Derbyshire is an area where there is a shortfall of sites, albeit the need is not quantified as yet. I am also conscious that the appellant is endeavouring to ensure his family have a decent home and access to health and education whilst facilitating their traditional lifestyle.
35. The Circular also states that sites, both allocated and private, are to be in appropriate locations. In this case the Blue Post Caravan Site is constrained by its proximity to a conservation area and listed buildings, its location in an area at high risk from flooding and by its dependence on access to a high volume, high speed trunk road. A small, discreet caravan site, as originally approved, is able to be accommodated. The current proposal would markedly increase its size. As a result, it would compromise conservation objectives, be likely to place the occupiers at risk from flooding and fail to promote road safety. In these respects the proposal is contrary to the development plan and to national planning policy. These conflicts are not outweighed by the general need for gypsy sites and the personal circumstances of the appellant's family. I conclude that the balance is against the proposal.

Human Rights

36. Throughout my consideration of appeal I have in mind the general framework of the requirements of the Human Rights Act. However, the appellant and his family do not live at the Blue Post Caravan Site and, as indicated, by the planning history they have not done so for some time. In these circumstances I consider that dismissal of the appeal would not interfere with their human rights under Article 8 of the European Convention on Human Rights – the right to respect for private and family life and for the home.

Conclusion

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

Formal Decision

38. I dismiss the appeal.

Diane Lewis

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr P Brown BA(Hons) MRTPI	Philip Brown Associates, 74 Park Road, Rugby, Warwickshire CV21 2QX
Siobhan Spencer	Derbyshire Gypsy Liaison Group, Ernest Bailey Community Centre, New Street, Matlock DE4 3FE
Mr J Rook	Blue Post Caravan Site, Burton Road, Egginton DE65 6HA
Mrs M Rook	Blue Post Caravan Site, Burton Road, Egginton DE65 6HA

FOR THE LOCAL PLANNING AUTHORITY:

Mr T R Dening DipURP MRTPI	Area Planning Officer, South Derbyshire District Council
Mr I Bowen	Planning Policy Manager, South Derbyshire District Council

INTERESTED PERSONS:

Mr A P Aspbury BA MRTPI	Antony Aspbury Associates, 34 Carlton Business Centre, Carlton, Nottingham NG4 3AA representing Mr and Mrs Huber of High Bridge House, Burton Road, Egginton
Mrs Brown	Member of the Flooding and Drainage Working Party of Egginton Parish Council
Debbie Strain	Member of the Flooding and Drainage Working Party of Egginton Parish Council, 31 Duck Street, Egginton DE65 6HA
Councillor F R Hood	Member for Etwall and Egginton Ward, South Derbyshire District Council
Councillor J Lemmon	Member for Etwall and Egginton Ward, South Derbyshire District Council
Councillor Mrs Brenda Cowley	Egginton Parish Council, 2 Dove Grove, Egginton DE65 6HH
Sir Henry Every Bt	Egginton Parish Council, Cotham, 26 Fishpond Lane, Egginton DE65 6HJ

DOCUMENTS FROM THE HEARING

Document	1	List of persons present at the hearing
Document	2	Letter from Derbyshire Gypsy Liaison Group dated 8 December 2004
Document	3	Accident information submitted by Egginton Parish Council
Document	4	E mail from the Environment Agency submitted by the Council
Document	5	E mail from the Environment Agency submitted by Mrs Brown
Document	6	Information and plan of Trent and Mersey Canal Conservation Area
Document	7	Map of the Dove-Trent confluence submitted by Mrs Brown
Document	8	Accident information submitted by the Council



Appeal Decision

Hearing held on 26 January 2006

by **George Arrowsmith BA MCD MRTPI**

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
409 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail:
enquiries@planning-
inspectorate.gsi.gov.uk

Date

07 MAR 2006

Appeal ref: APP/F1040/A/04/1170022

Spring Farm Cottage, Rosliston Rd, Drakelow, Derbyshire DE15 9UF

- 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 R Jones against the decision of South Derbyshire District Council.
- The application ref: 9/2004/1364/F, dated 14 October 2004 was refused by notice dated 6 December 2004.
- The development proposed is the amendment of permission No 9/2003/0651/U to permit the public to visit Richdon Koi and purchase directly at the premises.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The description of the proposal on the application form contained a note which said that full details of the proposal were contained in an accompanying report. The report makes it clear that it is proposed to change the description of the authorised use as well as rewording condition No 2 on permission No 9/2003/0651/U. Subsequently it was agreed at the hearing that the application should more correctly be described as one to change the use of the premises from the already authorised use which specifies wholesale mail order to "Use of the outbuildings for fish keeping, breeding, storage, mail order and retail sales together with ancillary activities". I will determine the appeal on that basis.
2. Part of the appellant's proposal is that the original condition No 2, which prevents direct retailing to customers visiting the site and restricts all sales to wholesale mail order, should effectively be deleted. This is implicit in the wording of the proposal as agreed at the hearing.

Main Issue

3. I consider that the main issue is whether the proposal has the potential to cause a significant loss of highway safety.

Development Plan and Other Planning Policies

4. The development plan includes the adopted South Derbyshire Local Plan. Transport Policy 6 in that plan says that planning permission will not be granted for development which interferes with the free and safe flow of traffic.

Reasons

5. The Highway Authority accept that the actual visibility at the junction of the access track with Rosliston Road is satisfactory even though there is a bend in Rosliston Road immediately to the north. However, for the drivers of vehicles emerging from the access and of vehicles approaching the access from the north, this satisfactory situation depends on being able to see over the corner of a field on the east side of Rosliston Road. If a hedge were to be planted on the field boundary or a high crop were to be grown within the field, visibility of approaching southbound traffic for the driver of an emerging vehicle would be limited to just over 50m. For the driver of a vehicle approaching from the north, forward visibility of a vehicle waiting to turn right into the access would be less than 40m. These distances compare with the 215m recommended in national guidance for a road subject to a 60mph speed limit.
6. I accept that the bend in Rosliston Road reduces the speed of vehicles in the vicinity of the access. However, I do not believe that it is reduced to a speed appropriate to visibility of 40m or just over 50m. I am therefore satisfied that the placing or growth of an obstruction to visibility in the field opposite the access would lead to a loss of highway safety. In these circumstances a substantial increase in the number of vehicles using the access would lead to a further loss of safety, which I consider would be significant.
7. For the appellant, it was argued that allowing retail sales from the site is unlikely to increase the number of visitors because, (i) customers can already legitimately visit the site to inspect fish, (ii) the appellant sells in a specialised market which does not depend on passing trade, and, (iii) the appellant does not wish to advertise the site as being open to the public. I have no reason to doubt the validity of these arguments, and I consider that allowing retail sales is unlikely to lead to an immediate substantial increase in the number of vehicles that legitimately visit the site. Nevertheless, it could eventually lead to such an increase if the site were sold to another operator or the nature of the appellant's business were to change.
8. It was suggested that conditions could be imposed making the permission personal to the appellant and restricting the retail use to the sale of koi carp. I agree that the effect of operating the use in accordance with both these conditions would be to reduce the likelihood of a substantial increase in traffic. Nevertheless, I have reservations about both suggested conditions. With regard to a personal permission, I am mindful of the advice in paragraph 93 of the Annex to Circular 11/95 that it is seldom desirable to prevent a planning permission from running with the land. The only justification for a personal permission specifically identified in the paragraph is when there are strong compassionate or other personal grounds. Similarly I consider that a condition restricting the business to the sale of a particular species of fish could be considered unduly onerous in the context of paragraph 36 in the same Annex.
9. I must also consider whether the field opposite the access is likely to be farmed in a way that would cause an obstruction to visibility. Here, I have little relevant information to help me beyond the Highway Authority's uncontested statement at the hearing that there has recently been a crop of rape. In this regard the appellant's agent did not disagree that rape grows high enough to limit visibility for vehicle drivers. Whilst I am unable to assess the probability that the farmer will plant another similar crop, it does not seem an

unlikely event. Visibility could also be limited if a hedge were planted on the field boundary. This may be less likely than visibility being limited by crops but it would have a more permanent effect.

6. I accept that allowing the appeal would have minimal immediate effect on highway safety and might indeed have little long term effect. Even so, it would increase the potential for danger. This could perhaps be avoided by the imposition of a personal condition and one limiting the species of fish to be sold. However, for the reasons given above, I would be reluctant to impose either of the suggested conditions. I therefore conclude that the proposal does have the potential to cause a significant loss of highway safety thereby conflicting with the objectives of local plan transport policy 6. I have considered the other conditions suggested on behalf of the appellant but consider that they would not prevent the hazard caused by the potential restriction to visibility.

Conclusion

11. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

12. I dismiss the appeal.



INSPECTOR

APPEARANCES

APPELLANTS

Mrs D Jones

Spring Farm Cottage
Rosliston Rd
Drakelow
Derbyshire
DE15 9UF

Mr P Diffey BA(Hons) MRTPI

Cotesbach Villa
54 Woods Lane
Stapenhill
Burton-on-Trent
DE15 9DB

FOR THE LOCAL PLANNING AUTHORITY

Ms A Briggs PG Dip Town Planning, MRTPI

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

Mr G Fairs I Eng. FIHIE, MIHT

Environmental Services
Derbyshire County Council
County Hall
Matlock
DE4 3AG

DOCUMENTS

Document 1 List of persons present at the hearing

