

08/02/2005

Item 2.1**Reg. No.** 9/2004/1544/O**Applicant:**

Mr Michael Plimmer
Moorend Cottage
Uttoxeter Road
Hilton
Derbyshire
DE65 5FZ

Agent:

Mr Michael Plimmer
Moorend Cottage
Uttoxeter Road
Hilton
Derbyshire
DE65 5FZ

Proposal: Outline application (all matters reserved except for means of access and siting) for one dwelling at Moorend Uttoxeter Road Hilton Derby

Ward: Hilton

Valid Date: 30/11/2004

This application is brought to Committee at the request of Councillor Walton

Site Description

The site comprises the side garden of the dwelling and is enclosed on the Uttoxeter Road side by a low earth bund and on the western side by a hedge. There is no defined northern boundary as the application plan indicates that part of the land to the north of the site would be retained with the original dwelling. The eastern boundary is the common boundary with the house and has a garage and out building on part of its length. Access to the site would be from Uttoxeter Road. The site is generally level. To the east of the site is a group of caravans, the retention of which is the subject of a separate report to this Committee (application no. 9/2004/1472).

Planning History

Planning permission for the extension of the dwelling was granted in 1989 and the erection of the workshops in the curtilage was permitted in 1993.

Responses to Consultations

The site lies in the parish of Marston and Hoon from which no response has been received. It also lies adjacent to Hilton Parish that has requested a consultation on this application. No response had been received when this report was prepared; if a response is received it will be reported at the meeting.

The County Highway Authority has accepted that the development would be acceptable from a highway point of view provided that suitable vehicle parking and turning space can be provided within the curtilage. A prescribed building line relating to highway improvements affects the

site and this should be revoked through the County Highway Authority if permission were granted.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 7,

Local Plan: Environment Policy 1, Housing Policy 8,

Emerging Local Plan: Policy ENV 7.

Planning Considerations

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

- The development plan
- The impact on the countryside
- The access to the site

Planning Assessment

Development Plan policies for the countryside, the site lies in the countryside dictates that new dwellings should be necessary for the operation of an established rural business. There is no such justification for this dwelling and as such the proposal is contrary to the development plan.

In terms of its impact on the countryside, it would represent an unnecessary intrusion into the countryside to the detriment of the rural character of the area.

The access could be provided in safe manner and all other matters are reserved for subsequent approval, the issue of parking and turning space could be dealt with at that time, plenty of space is available within the application site.

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

Recommendation

REFUSE permission for the following reasons:

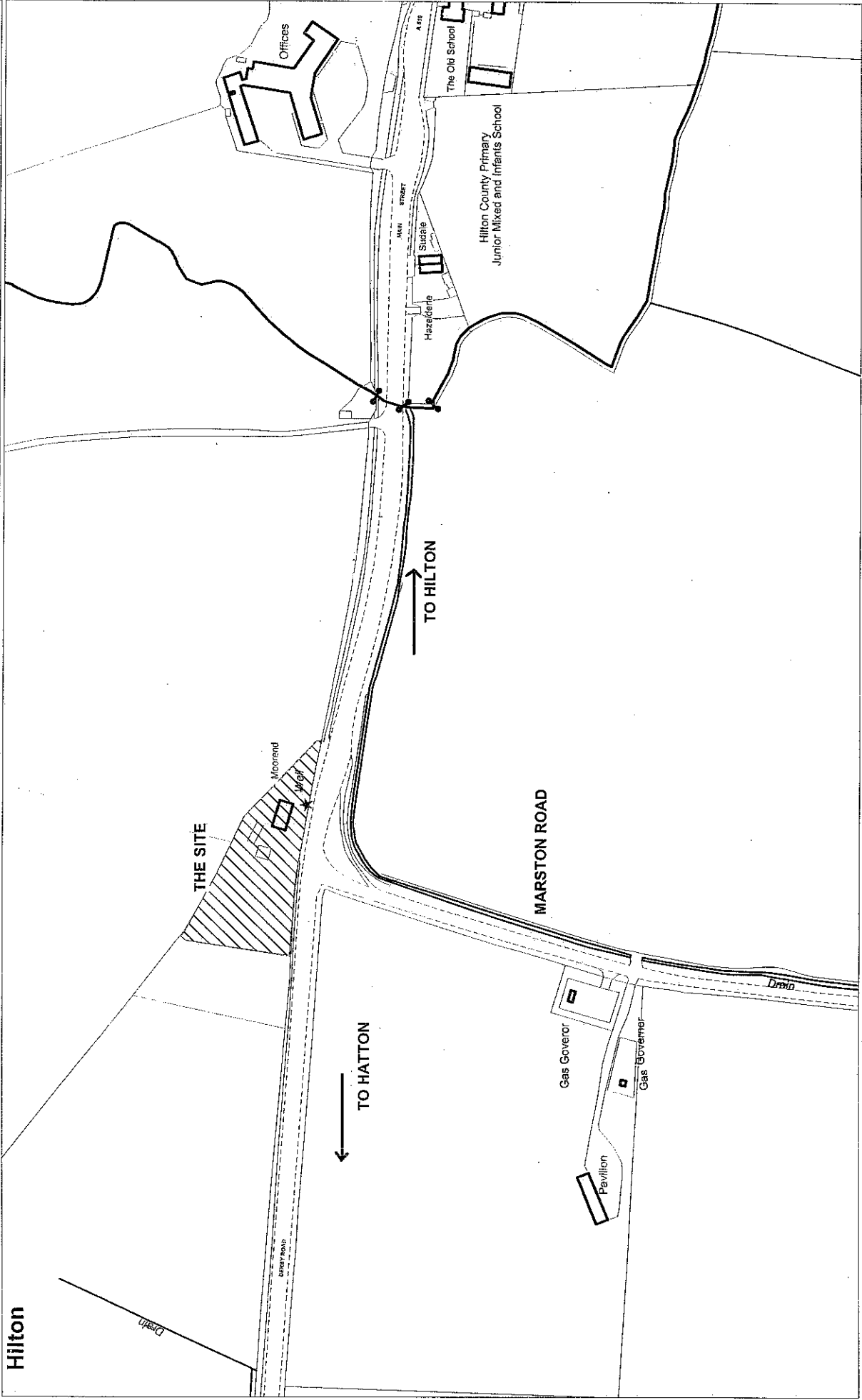
1. General Development Strategy Policies 1 & 4 and Housing Policy 6 of the adopted Structure Plan are part of a framework for the control of development in the County. They seek to implement the Government's strategy of directing development to core settlements where there is a wide range of facilities available that meet the needs of the community and limiting development in the countryside. South Derbyshire District Council has drawn up a draft replacement Local Plan to implement those strategic policies wherein Policies H1 & ENV 7 seek to encourage housing development on suitable previously developed sites in urban areas or 'serviced villages.' The hierarchy of settlements includes relatively minor settlements that host a range of services and facilities, but not areas outside of them such as the application site and its surroundings. In such areas, the provisions of Policy ENV 7 apply where development is only permitted where there is a specific and proven need for a dwelling, this does not apply in this case. Development in locations outside the specified settlements would not be sustainable and

contrary to the Government's objectives in relation to sustainable development as expressed in latest version of Planning Policy Guidance Note 3, the adopted Derby and Derbyshire Joint Structure Plan and the emerging Local Plan policies.

2. The proposal conflicts with the approved Derby and Derbyshire Joint Structure Plan General Development Strategy Policies 3 & 4 and Housing Policy 6 and the adopted South Derbyshire Local Plan Environment Policy 1 and Housing Policy 8 which seek to permit residential development outside settlements only if it is necessary to the operation of a rural based activity. These policy objectives are also repeated in the emerging replacement South Derbyshire Local Plan at ENV 7 & H1. The development would result in an unnecessary intrusion into the countryside to the detriment of the rural character of the area, which is unwarranted in the absence of such a need.

9/2004/1544/O Moorend
Uttoxeter Rd

Hilton



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Scale 1:2500
Plot centred at 428536 325343

Date Plotted 21/2/2005
9/2004/1544/O Moorend
Uttoxeter Rd
Hilton



08/02/2005

Item 1.6**Reg. No.** 9/2004/1472/U**Applicant:**
Mr Leo Smith
C/O Agent**Agent:**
Mrs Siobhan Spencer
Derbyshire Gypsy Liaison Group
Office 3 New Street
Matlock
Derbyshire
DE4 3FE**Proposal:** **The formation of a small Romany gypsy site for five caravans at Land To The North Side Of Uttoxeter Road Hilton Derby****Ward:** **Hilton****Valid Date:** **08/11/2004****Site Description**

The site comprises a level area of land off Uttoxeter Road Hilton (in the Parish of Hoon). The site is enclosed by fences with hedges to the east and west boundaries beyond the fences. The fence on the north boundary has a drainage ditch beyond it and a hedge on the other side of the ditch. The landowner under permitted development rights has erected most of the fences since the site was occupied.

Proposal

As set out above with the inclusion of a facilities block. The block would contain a sitting area kitchen, wash and toilet facilities.

Applicants' supporting information

The applicant has been confirmed as a gypsy who has resorted or resided in the area. He has camped on illegal sites elsewhere and has been evicted from them (verification is available if required).

Additional information has been submitted that draws attention to the draft of the latest government circular. It is stated that this draft advice has been accepted as a material consideration in recent appeals. The thrust of the advice is that Local Authorities should carry out a full survey of the needs of the gypsy community for accommodation in their areas and then make provision to meet that need in policies that should be developed through the Local Development Framework. It is not acceptable for Authorities to merely have criteria based policies to determine individual applications. It is acknowledged by Government that this approach results in the vast majority of proposals being rejected by Local Planning Authorities.

The applicant has also submitted a summary of a report prepared for the Government by Sheffield Hallam University relating to the health of the travelling community. The information is available for inspection on the file but it says that there is suspicion on the part of the travelling community and that the service providers are often unaware of the needs of the community. There are difficulties with communication between the community and service workers. Generally the health of the community is poorer than the settled community partly because the travelling community prefers to be self-reliant and is reluctant to seek help from the health service.

Planning History

Permission was granted in 1998 for the formation of an access to serve horse-grazing on the land but this was not implemented.

Responses to Consultations

Hilton Parish Council objects to the development on the following grounds: -

- a) The site lies outside the village framework as set out in the local plan and is not in keeping with the surrounding area and environment, nor with the emerging Village Plan.
- b) There is insufficient detail to allow the application to be determined.
- c) There is no access to be provided according to the forms but this is not the case, nor is the statement correct in stating that there was a previous vehicular access, there has only been pedestrian access to the land.
- d) Previous applications for access to the site and for a dwelling have been refused.
- e) There is no mains system to take foul water from the site as stated on the form [*– the applicants have since amended the application to propose an on-site system to drain the foul water.*]
- f) The access is in a dangerous position being onto a de-restricted section of road close to the Marston Lane Junction.
- g) Another purpose built site exists on the A516 at Uttoxeter Road Hatton.

The County Highway Authority has no objection to the proposal subject to vehicle parking and manoeuvring space being provided and the access being provided with a proper highway crossing.

The Head of Environmental Health has no objection.

Responses to Publicity

A total of 7 letters and E-mails from 7 households have been received raising the following additional objections to those made by the Parish Council: -

- a) There would be additional noise and disturbance.
- b) Another Romany site would create and imbalance in provision in the area and may lead to the attraction of other Romany families.
- c) The land regularly floods and to allow this development would add to the problem.
- d) The site would be unsightly and rubbish. The site would need to be monitored on a regular basis to ensure that it is kept clean and tidy.
- e) The difficulty in future enforcement against such sites.
- f) There would be a real risk of an increase in crime in the area.

- g) The reputation of the village would be damaged.
- h) The site is not large enough to accommodate all the caravans and the green areas shown on the plans.
- i) The applicant has ignored advice from the gypsy council and has carried out work to the site.
- j) One of the dogs on site attacked a resident; this could be an indication of things to come.
- k) There would be a greater risk of accidents if the site were permitted.
- l) The gypsies have been allowed to stay on the land but have started to carry out works to the land, this should not happen until planning permission is granted.
- m) The applicant has stated that he would prefer a bungalow on the site but had been told that there was no chance but if he got permission for the caravans first, it would increase the chance of getting a permission for a permanent dwelling.
- n) Property is bound to be devalued although it is recognised that this is not a planning issue but the Council ought to be aware if the site were permitted applications would be made to reduce Council tax bands resulting in loss of revenues to the Authority. If the site were not permitted, a resident would purchase the site at an agreed price so that Mr Smith suffered no financial loss and could find a more suitable alternative location.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 8.

Local Plan: Environment Policy 1, Housing Policy 15.

Emerging Local Plan: Policies ENV 7 & H 11

Planning Considerations

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

- Government Advice of the Provision of Gypsy Sites and the weight to be attached to it
- The Development Plan
- The impact of the development on the character and appearance of the area,
- The access to the site

Planning Assessment

Current Government advice is contained in Circular 1/94 and subsequent amendments all of which are to be consolidated and expanded upon in new circular that is currently out for consultation. The trust of the current circular is that Council's should continue to make provision for gypsy sites but that private provision is also encouraged.

This basic advice has been expanded upon in various statements since the publication of the circular. In summary, it is not acceptable for Authorities to rely solely on criteria based policies unless it can be demonstrated that a full assessment of the needs of the travelling community has been undertaken. Where it is demonstrated that site provision is necessary, then the Authorities should make provision for such sites in its Local Plan.

The draft circular, that will be the subject of a report to the Environment and Development Services Committee in due course, sets out how the Government expects Authorities to deal with applications prior to the completion of the local housing needs assessment. It expects that

sources of information be made available such as monitoring incitements of unauthorised encampments, the status of existing authorised private sites, the number and outcomes of planning applications, the levels of occupancy on private and public sites and the twice yearly count undertaken by the ODPM. If an application is to be refused then this information should be provided as part of the appeal documentation.

This Authority's criteria based policy has been challenged on a number of occasions in the past couple of years and has been found to be wanting in terms of the lack of any knowledge about the overall requirements of the travelling community. Thus, notwithstanding the objections that have been made to applications, the proposals of the community have been upheld at appeal in the vast majority of cases. Accordingly, if the Authority wishes to oppose this proposal, it would need to be satisfied that the provisions for the travelling community are adequate especially in the light of the latest Draft Circulars advice on steps to be taken to determine application in the interim period.

As a first stage in understanding the needs of the travelling community, the Authority commissioned a report on the existing facilities in the area. It identified that the community was generally satisfied with the sites where interviews took place but also identified that the site at Park Road Overseal is not available to the travelling community. It also showed that the turnover at the well-established sites was very small because, once based in the area, its attractiveness, low crime rates and other factors make staying in South Derbyshire a priority. The respondents generally had no conflict with the resident community and the majority had been in their existing site in excess of one year, 35% having been in residence for over 5 years.

In terms of the bi-annual count, this continues to reveal that unauthorised encampment take place within the administrative area. This is emphasised by recent experiences in the Hilton, Hatton and Linton areas where land was occupied but the occupiers were moved on.

The site at Church Broughton (Woodyard Lane) remains fully occupied and the County Council has recently proposed 3 extra pitches at this site. The private site at Hatton the has had spaces but the owners have indicated a preference to retain the site available for his immediate family rather than offer the site to the wider travelling community as the permission for the site allows.

In conclusion on the issue of Government advice, there appears to be an on-going need for sites in the administrative area. The provision of private sites is encouraged by the advice and in the absence of suitable sites within the Local Plan it would be difficult to refute the application on the basis of the criteria based policies referred to above.

In looking at the criteria in the Development Plan and assessing the suitability of the site, the following are considered relevant – the site is well related to the village in terms of access to community services, access is capable from the main road that is now a C class road of lesser significance than it previously had, although it will continue to provide access to the major development taking place at Hilton.

A neighbour has drawn attention to the potential, and in the case of an alleged attack by a dog, actual disturbance to the amenity of the occupiers of the adjacent house. The occupiers have made a planning application for a dwelling on the land between the site and the house. This is subject of a separate report to the Committee (application no. 9/2004/1544). The house in which the objector's live is not immediately adjacent to the application site and does not directly overlook it. It is considered that a reason for refusal based on a material disturbance to adjacent residential property would be difficult to sustain at appeal for the above reason.

The next criterion is the whether a site is capable of sympathetic assimilation into its surroundings. The landform hereabouts is flat and to the north the A50 is raised above the general ground levels. Beyond that the ground starts to rise above the floor of the Dove Valley. Immediate natural screening is not an achievable objective in the short term. The applicant has discussed the options with officers and it has been suggested that if permission were granted, then a traditional hedge with occasional tree within it would help to mitigate the impact of the proposal. The applicant has erected fencing around the site as described above. The fencing is permitted development as it falls below the height limits imposed in the General Permitted Development Order.

Objectors have referred to the possibility of the site flooding. The site lies outside any main river flood zones and as such is not subject to a consultation with the Environment Agency. There is a drainage ditch along the north boundary of the site but the new owner of the site has recently cleared this out. This is not to say the land would not flood, simply that it is not land identified by the Environment Agency as at risk from flooding (land on the opposite side of Uttoxeter Road is in the area of risk).

The Committee should be aware that if it decides that the application should be refused for any of the potential reasons set out above, then those reasons can be set aside at appeal if the Authority is unable to demonstrate that there are sufficient sites in the administrative area to meet the needs of the travelling community notwithstanding the strength of the environmental arguments against the proposal.

On balance, the site is well related to the settlement, it would not cause material disturbance to residential property, over time it would be capable of assimilation into its surroundings and adequate pedestrian and vehicular access could be provided.

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

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. 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.

3. 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.

4. This permission does not authorise the use of the land as a caravan site by any persons other than gypsies as defined by Section 24(8) of the Caravan Sites and Control of Development Act 1960 as amended.

Reason: In order to retain the site available to the gypsy community in the interests of maintaining a range of sites for use by the travelling community.

5. 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 septic tank shall be installed in accordance with the approved details before the development is first brought into use.

Reason: In the interests of pollution control.

6. A sample of both the roof tile and the brick for the amenity block shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

7. The use of the amenity block shall be limited to the occupiers of the site and their friends and relatives and shall not be used as a separate unit of accommodation.

Reason: The block contains facilities that may allow for its separate occupation, the Local Planning Authority accepts the need for facilities on the site but seeks to make it clear that separate individual occupation of the site is not authorised by this permission.

8. No development shall take place until details of a vehicular turning area within the site curtilage adequate to enable all vehicles to enter and leave the site in a forward direction have been submitted to the Local Planning Authority. The turning area as approved by the Local Planning Authority shall be laid out and hard surfaced accordingly prior to the first use of the development and be retained available for that purpose thereafter.

Reason: In the interests of highway safety.

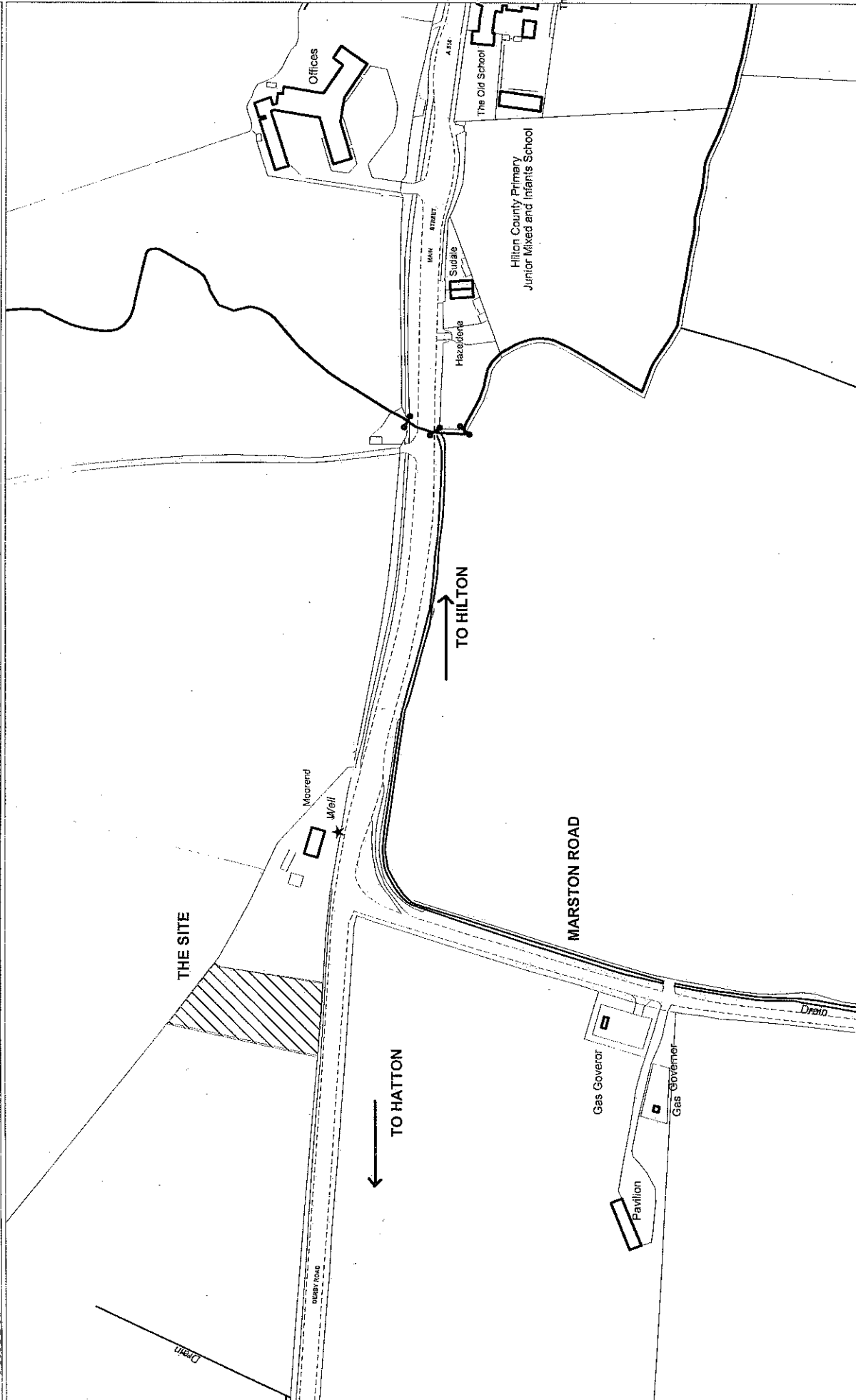
9. Within 4 months of the date of this permission, the site shall be provided with a dropped kerb to the standard required by the County Highways Authority and approved by the Local Planning Authority.

Reason: In the interests of highway safety and to provide a suitable access to the site.

Informatives:

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.

9/2004/1472/U Land North of Uttoxeter Rd
Hilton



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08/02/2005

Item 1.2**Reg. No.** 9/2004/1094/F**Applicant:**

Mr R Hosking
Highfield Farm Heage Lane
Etwall
Derby
DE65 6LS

Agent:

Darryn Buttrill
Bi Design Architecture
First Floor Studio
79 High Street
Repton
Derbyshire
DE65 6GF

Proposal: The erection of a single storey granny annexe at Highfield Farm Heage Lane Etwall**Ward:** Etwall**Valid Date:** 26/08/2004**Site Description**

The site lies immediately adjacent to the farmhouse. There are no current boundary features which would separate the site from the open field to the rear.

Proposal

The extension would contain living accommodation of living room, dining kitchen, a bathroom, 1 bedroom and a study. In the roof space a craft room is proposed. There would be links into the main house at ground and first floor level. The existing garden area to the house would be extended to incorporate the extension of the house.

An unauthorised temporary bungalow would be removed from the site as well as a temporary building that is currently used as the farm office.

Planning History

The farm has a long and varied history. In terms of residential accommodation, there are 2 permanent dwellings at the site, one occupied by the owner and one by a farm manager. A recent appeal for a third dwelling at the site was dismissed. Other recent applications have been for the erection of new and replacement chicken units that form the basis of the farm business. However, the farm owners also rear other animals and operate an open farm centre. In addition to the open farm, the owner and his family operate as a centre for young people who have problems with school and in the community. The young people are provided with a practical education as well as learning basic skills through that experience. A teacher is employed at the site on a full-time basis.

Responses to Consultations

Etwell Parish Council considers that the extension is just another way of getting a dwelling on the site. It has a large footprint and would represent an intrusion into the countryside. *(Since the application was first submitted, the amount of accommodation and the scale of the structure have been considerable reduced and the extension is now subordinate to the main dwelling).*

Responses to Publicity

None

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 6,

Local Plan: Environment Policy 1, Housing Policy 8 & 13,

Emerging Local Plan: Policy ENV 7 & 21.

Planning Considerations

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

- The Development Plan
- The impact on the countryside

Planning Assessment

The Development Plan requires that new residential development in the countryside should be necessary for the operation of an established rural business. The proposed extension contains all the facilities to be occupied as a separate dwelling. Whilst a permanent third dwelling on the holding has been resisted, the provision of additional living accommodation attached to the house and linked to it both physically and would not appear that different from a traditional residential extension. A condition attached to the permission would ensure that this situation remained.

In terms of the needs of the holding as an agricultural operation, the erection of a third dwelling was described as desirable but not essential to the agricultural operation of the farm. If accepted the extension would not be a separate dwelling and would meet the desirable situation outlined in the independent consultant's report (as submitted with the application for the third dwelling) on the overall business carried out at the farm without prejudicing the proper controls over unrestricted residential development in the countryside.

The impact of the extension on the character of the area has been considered in the design of the amended proposal. The extension of the dwelling would have the appearance of an attached outbuilding subordinate to the main house and would therefore be acceptable.

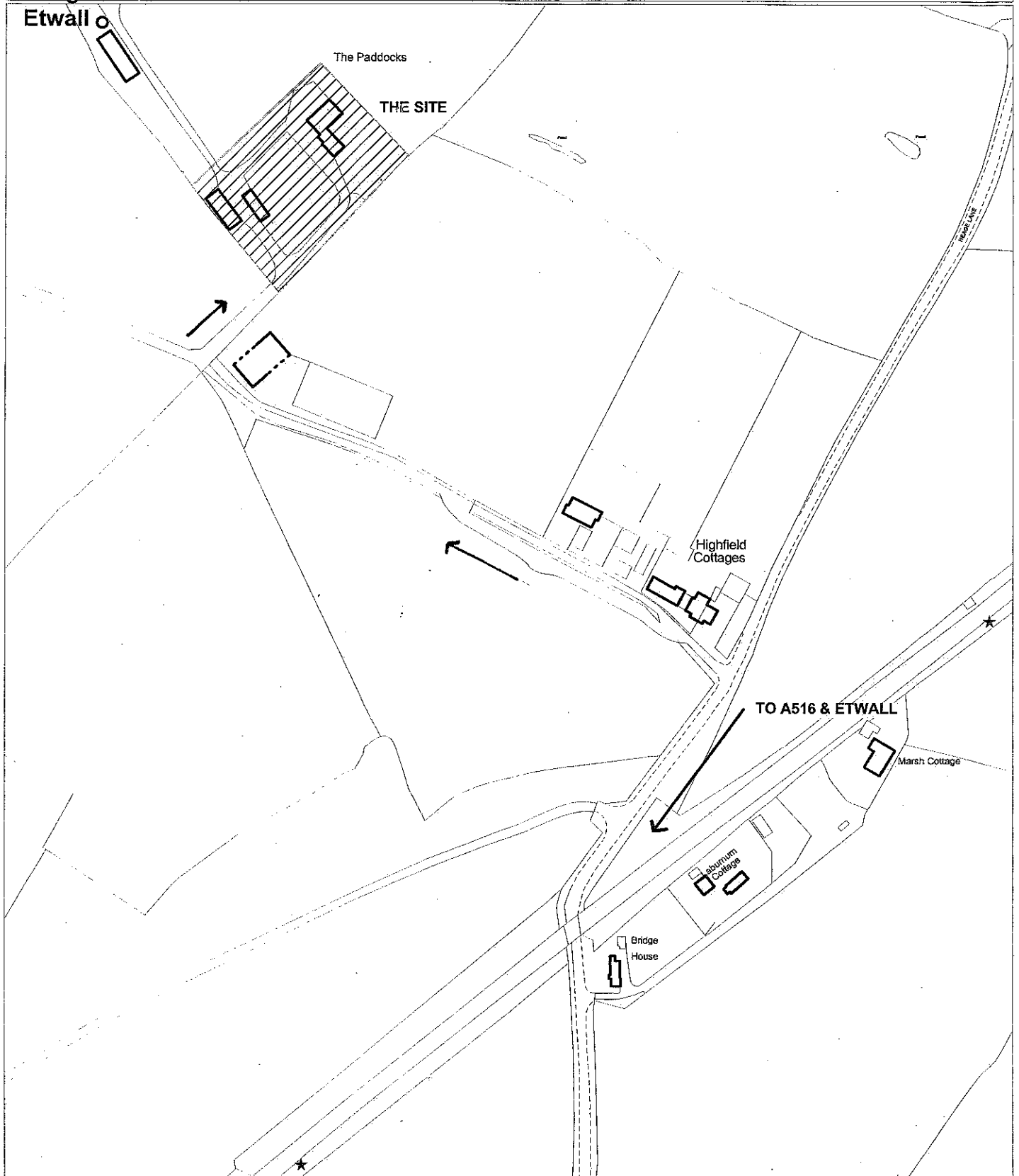
None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.
Reason: To ensure the extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.
3. The living accommodation hereby permitted shall be occupied solely by members of the household of Highfields Farmhouse or by staff employed at the farm, and shall not be severed from the main house as a separate and unconnected dwelling.
Reason: Permission is granted in the light of your particular personal circumstances. Although the erection of an extension to provide additional accommodation to be used in conjunction with the existing dwelling is acceptable, the Council would not normally be inclined to allow the formation of a separate residential unit in this locality. Since the extension includes all the domestic facilities necessary for the establishment of a separate self-contained unit, the Council hereby seeks to make it clear that separate occupation is not authorised by this permission.
4. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 470S/04.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

9/2004/1094 Highfield Farm
Heage Lane



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Scale 1:2500 Date Plotted 21/2/2005

Plot centred at 428536 325343

9/2004/1094 Highfield Farm
Heage Lane
Etwall



08/02/2005

Item 1.3**Reg. No.** 9/2004/1373/F**Applicant:**

Davinda Gidda
3 Daylesford Close
Littleover
Derby

Agent:

D W Decamps
20 Rowditch Avenue
Derby
DE22 3LD

Proposal: The erection of two garages and gazebo, external alterations and new access at The Greyhound PH Heath Lane Findern Derby

Ward: Willington/Findern

Valid Date: 19/10/2004

This application is brought to Committee at the request of Councillor Ford.

Site Description

The site lies in the Trent and Mersey Canal Conservation Area. The land has an open frontage to the canal. Fences enclose two of the boundaries and the third was open but has now been enclosed by a boundary wall that form part of the proposals in the current application. The applicant is constructing extensions to the pub that were previously permitted.

Proposal

The application is as described above but the wall mentioned has been commenced along the east boundary of the site.

Applicants' supporting information

The application has been amended to site the proposed gazebo adjoining the east boundary wall. The method of construction has been reduced to make it a more demountable structure and it would no longer be constructed on a concrete base.

Planning History

As stated above extensions have previously been granted on the site for extensions to the public house. The use of the public house as a restaurant is permitted by virtue of the Use Classes Order as both are within the same use class. A similar application was withdrawn last year pending amendments to the then submitted scheme.

Responses to Consultations

Findern Parish Council object to the development for the following reasons: -

- a) The gazebo looks like a modular tent and is not in keeping with the surrounding area nor the main building
- b) Any increase in traffic using the site would be dangerous, there is virtually no visibility to the right and traffic approaching over the bridge has to swing out into the road to make the turn
- c) There is concern about the potential for smells from the kitchen and the modular tent if the site is intended to operate as a restaurant.

The County Highway Authority requires that the access be widened to 7 metres to allow easy two-way movement and pedestrian intervisibility. If the above were achieved, then there would be no objection to the development as the open sided gazebo is unlikely to generate significant levels of additional traffic. If this were a permanent structure it is likely to attract an objection from the County Highway Authority.

British Waterways has no objection to the principle of the application subject to no obstruction to the culvert that it has access to that passes through the site and it is requested that the applicant contact British Waterways if there is likely to be an obstruction of the route

The Head of Environmental Health has no objections.

The Conservation officer has no objection subject to the latest amended plans and subject to conditions governing materials of construction, details of the fire escape door, approval of pointing details, painting of timber, internal arrangements for servicing and ducting, hard landscaping being approved and the use of traditional coping on the walls.

Responses to Publicity

One letter has been received objecting because of the substandard nature of the access, the potential for cars being parked or queuing on the lane, there is concern that the gazebo would not be in keeping with the area, the garages are in an area that carries water away and it needs unblocking, the new windows are not necessarily in keeping, the opening hours should be controlled and there is a potential for smells from the site.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Economy Policy 4, Environment Policy 9;

Local Plan: Employment Policy 1, Environment Policy 12;

Emerging Local Plan: Policies EMP 2, ENV 21A.

Planning Considerations

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

- The Development Plan
- The impact on the Trent and Mersey Canal Conservation Area
- The access to the site

- The impact of smells on nearby properties.

Planning Assessment

The expansion of existing businesses is acceptable under the provisions of the Development Plan policies identified above unless there are unacceptable environmental or traffic impacts.

The application has been the subject of amendment that has brought it to an acceptable state for the Council's Conservation Officer and the County Highway Authority. In light of this, the refusal of permission on the basis of the objections raised by the Parish Council and objector would be difficult to sustain at appeal. The erection of the garages may cause some concern to British Waterways but they would have separate rights to control their access to the culverts to which they have referred.

The County Highway Authority has indicated that if the gazebo was of a permanent construction, it would have objected. The reason it did not was on the basis that the open sides of the gazebo mean that its use would be limited and the likely traffic generation would thus be less than for a permanent structure. In addition, discussions with the applicant reveal that the gazebo would be used primarily to serve passing trade on the canal.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. Revision C received on 11 January 2005.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Large scale drawings to a minimum Scale of 1:10 of the proposed fire escape door shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
4. No part of the development shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The approved samples shall be used in the development hereby approved.
Reason: To safeguard the appearance of the existing building and the locality generally.

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

Reason: In the interests of maintaining the appearance of the Canal Conservation Area.

6. A sample panel of pointing 1 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing.

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

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

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

8. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced. This applies to the provision of the extractor flue that is shown constructed internally on the amended drawing referred to in Condition 2 above.

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

9. No part of the development shall be carried out until precise details including paving patterns, specification and samples of the materials to be used in the hard landscaping of the site have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority

Reason: In the interests of maintaining the character and appearance of the Canal Conservation Area.

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

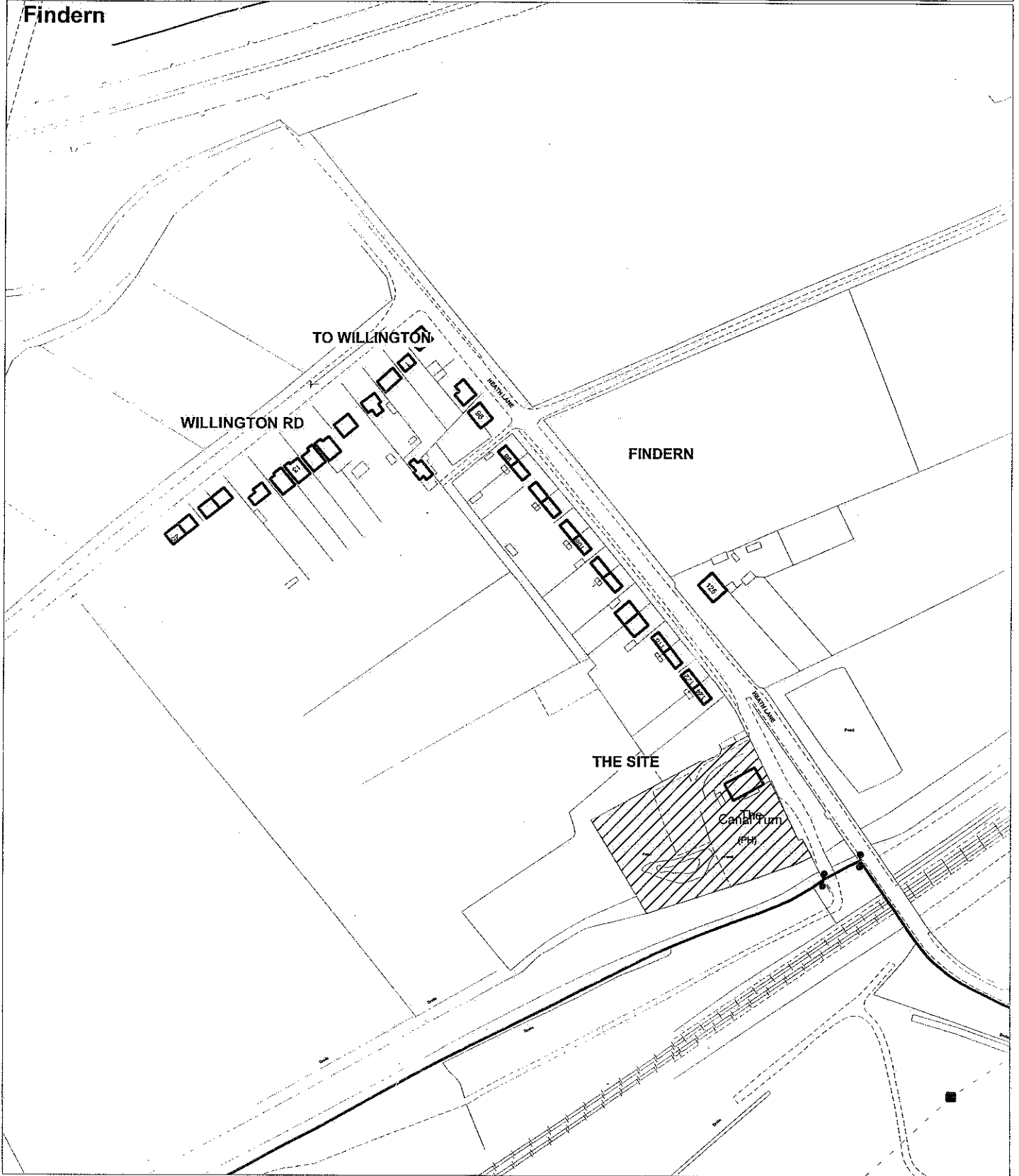
Reason: In the interests of maintaining the character and appearance of the Canal Conservation Area.

Informatives:

You are advised to note the requirements of British Waterways set out in the attached letter, the route of the culvert appears to be close to the proposed garages and you should contact the company as suggested in the letter prior to erecting the garages.

9/2004/1373/F The Greyhound PH
Heath Lane

Findern



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Scale 1:2500 Date Plotted 21/2/2005

Plot centred at 428536 325343

9/2004/1373/F The Greyhound PH
Heath Lane
Findern



08/02/2005

Item 1.5**Reg. No.** 9/2004/1452/FH**Applicant:**

Mr D Robson
12 Penkridge Road
Church Gresley
Swadlincote
Derbyshire

Agent:

W Haywood
15 Queen Victoria Drive
Swadlincote
Derbyshire
DE110LA

Proposal: The erection of a two storey extension at 12 Penkridge Road
Church Gresley Swadlincote

Ward: Gresley

Valid Date: 04/11/2004

Site Description

The site is a semi-detached house located within an immediate area of semi-detached properties, but opposite to an area of detached properties. The house is sited at angle to Penkridge Road.

Proposal

The application proposes a two-storey flank extension for the whole depth of the house, with the front corner thereof extending to the highway boundary.

Planning History

The property lies within a residential development approved in 1998. There have been no previous alterations or extensions to the property.

Responses to Consultations

The County Highway Authority has requested that certain conditions are attached to any permission, to prevent garage doors opening over the highway and to preserve the structural integrity of the highway.

Responses to Publicity

None received.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: N/A

Local Plan: HP13

Emerging Local Plan: ENV21

Planning Considerations

The main issue central to the determination of this application is impact of the proposal on the amenities of the occupiers of No.14 Penkrigde Road.

Planning Assessment

The house at 14 Penkrigde Road is sited at right angled to the application property and is approximately 1.5 metres higher. The Council's SPG on extensions seeks to protect windows in neighbouring dwellings from overshadowing, by ensuring that two storey extensions do not breach the minimum distance requirements along a 45° line drawn from the centre of the nearest ground floor primary window of the neighbouring property. The nearest point of the proposed extension (its rear corner) would be approximately 9.3 metres from the centre of the nearest ground floor primary window of No.14. This amounts to a shortfall in minimum standards of approximately 2.7 metres. The affected window at No.14 already suffers somewhat from the existence of a shed within its curtilage and 1.8 metre high fencing, both in the same general direction as the proposal. The affected window benefits however from an otherwise uninterrupted outlook, and particularly from its position elevated some 1.5 metres above the level of the application site.

It is therefore considered that the window would not suffer from material loss of amenity if the proposal were built. Accordingly a case for refusal is considered to be unjustified. No objection has been received from the occupiers of No.14 Penkrigde Road.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Unless otherwise agreed in writing by the Local Planning Authority no doors shall be fitted to the proposed garage.
Reason: In the interests of highway safety.
4. No part of the development hereby permitted and including the foundations thereof, shall be located within, or affect the structural integrity of the highway.
Reason: In the interests of highway safety.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the garage accommodation/parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

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

Informatives:

The proposed development lies within a coal mining area. In the circumstances Applicants should take account of any coal mining related hazards to stability in their proposals. Developers must also seek permission from the Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at www.coal.gov.uk.

9/2004/1452/FH 12 Penkridge Rd
Church Gresley



Scale 1:1250 Date Plotted 21/2/2005

Plot centred at 428536 325343

9/2004/1452/FH 12 Penkridge Rd
Church Gresley



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