

DEVELOPMENT CONTROL COMMITTEE – 22 March 2005

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

REPORT OF THE PLANNING SERVICES MANAGER

1. Planning Applications

2. Appeals

INDEX TO PLANNING APPLICATIONS

Application Reference	Item No.	Place	Ward	Page No.
9/2004/1212	1.1	Midway	Midway	1
9/2004/1595	1.2	Stenson	Stenson	6
9/2004/1628	1.3	Foston	North West	7
9/2005/0014	1.4	Melbourne	Melbourne	10
9/2005/0079	1.5	Hilton	North West	13
9/2005/0089	1.6	Ticknall	Hartshorne/Ticknall	19
9/2005/0141	1.7	Rosliston	Linton	26
9/2005/0142	1.8	Rosliston	Linton	33
9/2005/0168	1.9	Swarkestone	Aston	38

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

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

22/03/2005

Item 1.1**Reg. No.** 9/2004/1212/O**Applicant:**

Ms S Hynes
477a Burton Road
Midway
Swadlincote
Derbyshire

Agent:

P. Diffey
Peter Diffey & Associates
Cotesbach Villa
54 Woods Lane
Stapenhill
Burton On Trent
DE15 9DB

Proposal: **Outline application (all matters to be reserved) for residential development with access off James Street (involving narrowing part of James Street) at Land To The Rear Of 477a Burton Road Midway**

Ward: Midway

Valid Date: 13/09/2004

Site Description

This L shaped site, has an area of some 0.25ha and forms part of the rear garden to 477a Burton Road, which is a detached bungalow. It slopes down from Burton Road and is bounded on all sides by residential development.

Proposal

The proposal is in outline with all matters including siting, design, external appearance, means of access and landscaping reserved for subsequent approval.

Access to the site is proposed from James Street, involving the demolition of four garages and the narrowing part of James Street directly to the south of the proposed access to 5.5m wide. The applicant's agent, however, has indicated that alternative access designs are possible.

Responses to Consultations

The Highway Authority requested a site frontage survey in order to demonstrate that an acceptable access can be provided. It added that the narrowing of James Street is not necessarily acceptable. Carriageway narrowing in order to allow development to take place may not be appropriate, particularly when there are implications for on-street parking to consider. Following the submission of the requested survey drawing the Highway Authority has raised no objection to the proposal. It says that "the proposed junction arrangement is not ideal, particularly in terms of the reduction in the James Street carriageway width. However, it considers that an objection to the development on these grounds could not be sustained.

The Primary Care Trust has requested a contribution of £444 per unit to local medical facilities and the Education Authority has requested a contribution of £1,400 per unit.

Responses to Publicity

Eight letters of objection have been received which are summarised as follows:

- If James Street is narrowed safe street parking relied upon by existing residents will be disrupted and possibly prevented
- Parking has always been a problem on James Street.
- Activities at the community hall and church often result in cars parking on the road
- There are often difficulties with access for bin lorries due to insufficient road space. Narrowing the road will make matters worse, including for emergency vehicles.
- Loss of privacy for neighbouring residents.
- The proposed pavement extension will restrict or deny the neighbouring residents access to their property particularly when extra bins are introduced.
- Existing drains will need to be realigned causing inconvenience for existing residents
- The widened pavement could be a gathering point for gangs.
- The extended footpath may interfere with access and parking for the remaining garage.

Structure/Local Plan Policies

Joint Structure Plan: General Development Strategy Policy 1, 2 and 3 and Housing Policy 3, Transport Policy 4.

Adopted Local Plan: Housing Policy 4 and Transport Policy 6. and 11

Revised Deposit Draft Local Plan: H1, T1, ENV21, C3 and C5.

Planning Considerations

- Adequate access and parking
- Loss of amenity for existing residents.

Planning Assessment

The site falls within the definition of previously development land as defined in PPG3 and is within the Swadlincote Development Boundary. It therefore complies with Policy H1 of the emerging Local Plan and is acceptable in principle.

The letters of objection relate mainly to problems of parking and access on James Street and how the development is likely to make matters worse. It would appear that the Highway Authority's decision not to object was a marginal one as it acknowledged that the junction arrangement was not ideal, particularly in terms of the reduction in the James Street carriageway width. Whilst the residents concerns are undoubtedly real, the expert advice of the Highway Authority, upon which this Council relies, is that, on balance, the proposal is acceptable.

With regards to safeguarding neighbours' amenity, this is largely a matter to be considered at the reserved matters stage when the development and its relationship to neighbouring property can be considered in more detail and against the Council's guidance on housing layout and design.

The applicant has submitted a unilateral undertaking to secure the payment of medical and school contributions. A contribution for off-site open space may also be required depending on how many units are built.

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

Recommendation

Subject to the unilateral undertaking being successfully completed to secure the payment of medical, school, and public open space contributions then:

GRANT permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
 (b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.
 Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.
 Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. Notwithstanding the submitted plans, the proposed access details shall include a detailed design for the new street junction onto James Street. Unless otherwise agreed the design shall include a 5.5m wide carriageway, 1.8m wide footways and 6m radii.
 Reason: In the interests of highway safety.
4. No development shall be commenced until the new street junction has been constructed in accordance with the details submitted and approved in accordance with condition 3.
 Reason: In the interests of highway safety.
5. Prior to the commencement of the development space shall be provided within the curtilage for site accommodation, materials storage, employee/visitor parking and manoeuvring space, and lorry loading/unloading, parking and manoeuvring space in accordance with a scheme first submitted to and approved by the Local Planning Authority. The approved facilities shall be retained free of any impediment to their designated use and throughout the construction period.
 Reason: In the interests of highway safety.
6. The internal layout of the site shall accord with the County Council's Roads in Housing policy document or other national design guidance.
 Reason: In the interests of highway safety.

7. No development shall be commenced on site in connection with this approval until details of the means of disposal of highway surface water drainage via a positive, gravity-fed system to an approved outfall (highway drain, public sewer or watercourse sanctioned by the Highway Authority, Water Company or Environment Agency respectively) have been submitted to and approved by the Local Planning Authority. The scheme shall be constructed in accordance with the approved details prior to the first occupation of any dwelling on the site or in accordance with such other programme of works as may be agreed in writing.

Reason: In the interests of highway safety.

8. No development shall commence on site in connection with this approval until samples of materials for the external surfaces of the development 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 area.

9. Further to condition 2 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.

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

10. 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.

11. No development shall take place in connection with this approval until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

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

Reason: In the interests of the appearance of the building and to safeguard the character of the area.

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

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

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

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

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.

22/03/2005

Item 1.2**Reg. No.** 9/2004/1595/F**Applicant:**

Barhale Construction Plc
Barhale House
Bescot Crescent
Walsall
West Midlands
WS1 4NN

Agent:

Barhale Construction Plc
Barhale House
Bescot Crescent
Walsall
West Midlands
WS1 4NN

Proposal: **The construction of temporary site offices and welfare units (for construction of new sewers in the area) with associated car parking on existing hardstand at Land To The West Of Stenson Road Stenson Derby**

Ward: Stenson

Valid Date: 18/01/2005

Site Description

The application was deferred at the last meeting to negotiate noise reduction measures with the applicant, who has submitted information in this regard for consideration by the Environmental Protection Manager. His views are not available at the time of writing but will be reported to the meeting verbally. A copy of the previous report is attached (Appendix A).

22/03/2005

Item 1.3**Reg. No.** 9/2004/1628/F**Applicant:**
M Najib & Sons
The Abattoir
Church Broughton Road
Foston
Derby**Agent:**
Dickinson Building Design
24 Rectory Lane
Bredsall
Derby
DE24 5LL**Proposal:** **The erection of an extension at The Abattoir Church
Broughton Road Foston****Ward:** **North West****Valid Date:** **06/01/2005**

This application has been brought to Committee on the instruction of Councillor Bale.

Site Description

This is a basically level site served off Church Broughton Road. A low hedge encloses the road frontage. Along the south side of the site there is fence with some tree planting on the field side of the boundary. A public footpath follows the north boundary of the site along which is a high hedge that currently screens the site from that direction. There is a fence along the east boundary.

Proposal

The proposal is for a small addition to the existing canteen facilities at the site that would allow segregation of slaughter workers from loading workers when they are taking breaks. It would be a flat roof extension built in brick to match the existing brickwork on the site

Planning History

Outline planning permission for the erection of a replacement abattoir was granted in 1989. Details for the development were approved in 1993 and an application to extend the premises was granted in 2001 along with the retention of three silos at the site.

Responses to Consultations

Hatton Parish Council has no objections or comments.

The Head of Environmental Health has no objection.

Responses to Publicity

Five letters/e-mails and a petition signed by 39 persons objecting to the development for the following reasons: -

- a) The additional floor space would allow the further expansion of the business. The business has expanded greatly in the past and this has resulted in unsuitable traffic using the road. This is a narrow country lane and is unsuitable for the traffic now using it. Lorries park in front of the gates, when they are shut, causing an obstruction.
- b) There is also reference to noise arising from the site particularly when lorries park with their motors running.
- c) The smells from the site are appalling. It is understood that the owners are not very co-operative with Environmental Health in complying with its requests for improvements.
- d) The obstruction of the public footpath that follows the north site boundary is also of concern. People using the path are distressed to see animal skins and offal being kept in open storage containers. Photographic evidence of this has been submitted. These containers are loaded by buckets attached to the front of tractors and there is concern that users of the footway may not be seen.
- e) The impact on the drainage ditch that also follows this boundary arising from run-off from the site is also an area of concern.
- f) There are rats and other vermin.
- g) The dogs on the site run loose and appear to have access to the public footpath to the rear of the site.
- h) The owners have purchased/rented more land and clearly intend to increase their operations.
- i) The site notices have been removed within a week of being erected otherwise there would have been more objections

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Economy Policy 4

Local Plan: Employment Policy 1

Emerging Local Plan: Policy EMP 2

Planning Considerations

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

- The Development Plan
- The impact on the area
- Traffic generation

- The impact on the adjacent footpath

Planning Assessment

In terms of the development plan, the proposal would be for a small extension of the business to accommodate additional canteen space. Extensions to existing businesses are allowed under the above mentioned policies provided that the development would not have unacceptable traffic, noise or smell impacts on the local area.

This is an application for the addition of a small office/canteen extension. The highway issues raised by the objectors have to be assessed on the basis of the impact of the current proposal. It is unlikely that the traffic generated arising from this application would constitute a material consideration that would outweigh the presumption in favour of the expansion of businesses expressed in the above mentioned policies.

On the advice of the Environmental Protection Manager, noise and smell issues are equally not capable of forming a material consideration against this proposal.

The footpaths officer has responded to the complaints about the footpath and has indicated that the unannounced site visit he recently undertook revealed no obstructions.

Whilst there is concern about the presence of the abattoir it is an established use at the site and the minor extension is required to be examined on its own merits rather than what might happen that would have to be assessed separately in response to a subsequent planning application.

Officers are investigating the current condition of the site to ascertain if action through the use of the enforcement powers is required. This would be the subject of a separate report once investigations are completed.

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. 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.

22/03/2005

Item 1.4**Reg. No.** 9/2005/0014/U**Applicant:**

1st Call Environmental Services Ltd
 61 Derby Road
 Melbourne
 Derby
 DE73 1FE

Agent:

1st Call Environmental Services Ltd
 61 Derby Road
 Melbourne
 Derby
 DE73 1FE

Proposal: The use of the premises as a call centre for drain clearance company and the retention of gate at 61 Derby Road Melbourne Derby

Ward: Melbourne

Valid Date: 05/01/2005

The application is brought to Committee on the instruction of Councillor Harrison.

Site Description

The site is a traditional property within the conservation area, occupying a position at the corner of Derby Road with South Street. The upper floor of the building is in residential use. There is a yard area to the rear, containing a garage, with access from South Street.

Proposal

The application seeks to regularise the applicant's current use of the ground floor of the premises, as a call centre. It also affects a gate erected to secure the vehicular access on South Street. The gate is a rectangular section metal structure with mesh infill panels. It is presently painted a mid-tone green colour.

Applicants' supporting information

The applicant has been interviewed and confirms that the site would not be used as a depot for vehicles. The office is used to control a fleet kept elsewhere.

Planning History

Prior to the current use the property has been a wine bar and latterly a training centre for computer skills.

Responses to Consultations

The Parish Council, Melbourne Civic Society and the Highway Authority have no objection.

Responses to Publicity

A neighbour objects as follows:

- a) Whilst there is no objection to the use of the ground floor of the building as a call centre the use of the first floor could exacerbate existing parking problems.
- b) There is concern that the garage would be used for quasi-industrial purposes.
- c) The gate is totally out of keeping with the character of the neighbourhood to the detriment of the conservation area.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Economy Policy 5 and Environment Policy 9.

Local Plan: Employment Policy 5 and Environment Policy 12.

Emerging Local Plan: Policy EMP2 & ENV20.

Planning Considerations

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

- The principle.
- Residential amenity
- Impact on the conservation area.
- Highway safety.

Planning Assessment

The proposal would comply with locational principles of the relevant development plan policies.

The use is office based, controlling a fleet of vehicles not based at the premises. Compared with the previous wine bar and computer training facility the use is not harmful to the amenities of the occupiers of nearby residential property. An appropriate condition would safeguard the potential for intensification by future usage of the first floor. There is no current evidence of unauthorised usage of the garage to the rear.

The views of the Design and Conservation Officer have been sought in respect of the gates. Subject to the posts being cut down flush with the top of the gate, and re-painting to a more appropriate colour, the impact on the character and appearance of the conservation area would be neutral.

On the advice of the Highway Authority the proposal would not harm highway safety interests.

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. This permission shall relate to the use of the ground floor of the premises only.
Reason: To enable the Local Planning Authority to retain control over the use of the first floor in the interests of highway safety and residential amenity.
2. Within two months of the date of this permission the gate posts shall be reduced in height level with the top of the gate and shall be painted to a colour and specification that shall have previously been submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of preserving the character and appearance of the conservation area.

22/03/2005

Item 1.5**Reg. No.** 9/2005/0079/U**Applicant:**

Harding & Son
Newlands Farm Hatton Fields
Hilton
Derby
DE65 5GQ

Agent:

P. Diffey
Peter Diffey & Associates
Cotesbach Villa
54 Woods Lane
Stapenhill
Burton On Trent
DE15 9DB

Proposal: The change of use from agricultural building to warehouse/storage with car parking and service area at Newlands Farm Hatton Fields Hilton Derby

Ward: North West

Valid Date: 24/01/2005

Site Description

The site comprises an agricultural building on the site frontage. (Photographs of the building are available for inspection on the file). To the south of the site is a brick built farm building and beyond that is a leylandii hedge some 5 metres high. This is located on the neighbours' side of the fence. On the road frontage is a hedge with the occasional tree within it. The remaining boundaries are open to the rest of the farmyard. Other agricultural buildings of a similar type are visible within the yard.

Proposal

This is as described above and in the supporting information below.

Applicants' supporting information

The farm is a mixed agricultural unit. The building is currently used to house cattle. Cattle operations are to be greatly reduced and the building will become surplus to the needs of the farm. The changes are necessary to improve the economic viability of the farm. The proposal is to introduce an alternative use for the building.

The building has been in place for some 15 years. It is steel framed with block work walls and the roof covered in grey fibre cement sheets. Parts of the building would have to be replaced with a more acceptable material if the application were to be approved. Other alterations would be the provision of four doors to provide pedestrian and emergency access to the building.

Access would be from the adjacent highway that was substantially improved when the A50 was constructed. The access width, construction and visibility are such that they exceed the County Highway Authority requirements. The existing yard would provide a service yard and turning area; parking would be provided adjacent to this to a higher standard than is required by parking advice at the current time. Surface and foul water drainage could be dealt with by condition.

The proposal accords with the latest government advice contained in PPS 7 that encourages the commercial reuse of suitable buildings in the countryside additionally, it is reasonably close to a major transport route. Local Plan policies also support the reuse of buildings in the countryside, as does the Council's Supplementary Planning Guidance – Industrial and Office Design and Layout. It requires that the elevations should not be substantially changed.

For the above reasons the applicant contends that the proposal complies with policy and is generally acceptable.

Planning History

The farm house was originally sited to the south of the complex, it was replaced by a new dwelling in 1984 following the grants of planning permissions in 1983 on land to the north of the complex. A second dwelling was permitted in 1997 with details approved in 1999. Both these dwellings are subject to agricultural occupancy conditions. The planning history of the building is unknown.

Responses to Consultations

Hatton Parish Council has commented that the development is close to a dwelling and there is concern that the use may cause noise and other nuisance. The actual use is not clear and there is concern about the potential increased traffic on Sutton Lane.

The County Highway Authority states that whilst the junction and carriageway width at the junction of Uttoxeter Road are not ideal, it is considered that the refusal of permission based on a material impact on this junction could not be justified. Thus the principle of converting the building would be acceptable subject to details of the parking and manoeuvring space being provided and no external storage of goods being allowed.

The Environmental Protection Manager has no objection.

Responses to Publicity

8 letters/e-mails have been received objecting to the proposal plus one that sought additional information. The reasons for objecting are as follows: -

- a) The development would erode the rural scene. It falls outside the definition of small-scale development set out in Policy EMP 2 of the emerging Local Plan (1000sqm.). There are several other similar buildings on the site that could develop in a similar way if this proposal was accepted.
- b) The junction of this road with the former A516 is not suitable to accept additional traffic, as it is already a very busy junction.

- c) The actual entrance to the site is close to the junction with Broughton Heath Lane and there would be conflict with traffic seeking to use that junction causing a potentially dangerous situation. Traffic travels at the national speed limit, sometime in excess of it. On the narrow parts of the lane, traffic often has to mount the verge to allow passage. With the high speeds the chance of accidents is increased, animals have already been killed. Several of the existing entrances have restricted visibility when entering or leaving the particular sites. Highways have refused to allow warning signs to be put up
- d) The development would adversely affect the living conditions of the occupiers of the adjacent dwelling through noise fumes and disturbance.
- e) There is insufficient information to judge what the hours of working would be, the proposed numbers of staff, vehicles loading and unloading and staff levels and parking requirements. 21 parking spaces would seem to indicate significant levels of traffic and this would adversely affect the living conditions of the occupiers of the adjacent dwelling. This is a speculative venture designed to see what can be accommodated, thus there is no immediate demand for the building to be used for warehousing. It could be that the site would operate 24/7.
- f) The references to PPS 7 do not refer to the need to limit excessive expansion and encroachment of building development into the countryside and the need expressed in the guidance that Authorities should have regard to the amenities of nearby residents that may be adversely affected new types of on-farm activities.
- g) The proposal is contrary to Policies ENV 15 - Noise, T1 - Transport and New Development, T5 - Public Transport, T9 - Car parking and EMP 1 being only 2 km from Dove Valley Park allowing this would be contrary to the principle of allocating future employment growth to specified areas. Major refurbishment of the building would be required to bring it to a reasonable standard
- h) The development would also be contrary to Economy Policy 5 in the structure plan, which states that new uses such as this will normally be permitted where injury is unlikely to be cause to local amenities or the environment.
- i) The proposal may have an adverse impact on protected species with the potential loss of feeding areas.
- j) Other development proposals have been refused in the locality, this one should be treated the same as the use is inappropriate to the rural area.
- k) The service area implies that diesel fuel would be stored on the site and this would be a potential source of pollution.
- l) No site notices have been erected so fewer people have objected to the proposal than would have been the case.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4,

Local Plan: Environment Policy 1, Employment Policy 4,
Emerging Local Plan: Policies ENV 7, 21, & EMP 2.

Government Advice and Supplementary Planning Guidance:
Planning Policy Statement 7 – Sustainable development in Rural Areas
Supplementary Planning Guidance – Industrial and Office Design and Layout.

Planning Considerations

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

- The Development Plan
- Government Advice and Supplementary Planning Guidance
- The impact on the countryside
- Highway considerations
- The impact on neighbours

Planning Assessment

The development plan makes provision for the conversion of redundant agricultural buildings to alternative uses. PPS 7 states that the reuse for economic development purposes take precedence over other forms of use but it does not exclude reuse for residential purposes where that use is appropriate to the type of building and within the constraints set out in PPG 3. PPS 7 is mindful of the need to locate such development in sustainable locations close to villages and larger settlements.

Similar advice was present in the predecessor document PPG 7 when an appeal was heard for agricultural buildings at Sapperton Manor. In that case the building was clearly capable of conversion without significant alteration and the Inspector found that its reuse in a much more remote location was suitable and sustainable and pointed out that sustainability was more than just access to transport links. The impact on the area was equally important and the lost employment opportunities in the locality arising from changes to the agricultural industry. In that case the inspector found that the presence of a replacement employment opportunity for local people outweighed the harm that may be caused from allowing the building to be reused.

In this case the site is not far from Hatton Village, and there is a bus route along the former A516. The access to the site is via Sutton Lane which although is narrow at its southern end, in the vicinity of the site, has been significantly widened (as described by the applicant).

The County Highway Authority has raised no objection in principle but would want to ensure that subsequent access requirements are controlled. This could be achieved through the use of conditions. The objections raised on highway grounds would be difficult to sustain at appeal as identified by the County Highway Authority. The Inspector in the Sapperton case found that road width was not an issue where the lanes to and from the site are much narrower. He found that the forward visibility along those lanes was such that traffic should be able to pass with care. He also gave weight to the traffic generated by the farm when it was in full operation.

The lane to Uttoxeter Road is much wider in the vicinity of the application site and is straight all the way to the junction. It is acknowledged that the bridge 'obscures' visibility but the lane in the vicinity of the bridge is wide.

In terms of the visual impact on the countryside, the building forms part of a much larger group and these buildings already have an impact on the character of the area. As stated by the applicant some works of rebuilding and recladding would be necessary if the building is to be brought to a standard where it would be suited to use for storage. The current cladding is grey in colour and a more sympathetic colour may improve the appearance of the site. If more buildings were to be converted then further permissions would be necessary.

The occupiers of the former farmhouse are the neighbours most directly affected by the proposal. There is a boundary building and a line of tall conifers, within the control of the neighbours, which screen the rear of the property. The Environmental Protection Manager has raised no objection to the principle of the use. Any mitigation measures could be controlled through the imposition of conditions. It is proposed that conditions be imposed to require the submission of various details including hours of operation and submission of details of the parking and manoeuvring space such that appropriate measures can be put in place to control the operation of the site. Other conditions relating to the drainage from the building and the precise type of cladding to be used on the building are proposed.

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 part of the building shall be occupied until the Local Planning Authority has given prior written approval of the following details - the details of the cladding to be used on the upper wall and roof of the building, the means of foul water disposal, the means of surface water disposal and the landscaping of the site.

Reason: None of these details have been submitted and whilst the principle of the development is acceptable to the Local Planning Authority, there needs to be a control over the above matters in the interests of the amenity of the occupiers of nearby dwellings and the overall appearance of the area.

3. Before works to replace the cladding on the building, as described in the application, are commenced, details of the parking and manoeuvring shall be submitted to and approved in writing by the Local Planning Authority. Before the building is occupied the approved details of the parking and manoeuvring areas shall be implemented and be thereafter maintained available for their designated use.

Reason: To ensure that adequate parking and servicing provision is available.

4. No deliveries taken at or despatched from the site outside the following times nor at any time on Sundays, Bank or Public Holidays: 0730 - 1830 Monday to Friday, 0800 - 1300 Saturdays.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

5. The use of the premises shall be limited to Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and notwithstanding the provisions of Part 3 Class B(b) of the Town and Country Planning (General Permitted Development) Order 1995 no part of the building shall be changed to Class B1 without the prior written permission of the Local Planning Authority made in response to an application made in that regard.

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

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

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

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

8. There shall be no goods or materials stored in the open within the areas.

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

22/03/2005

Item 1.6**Reg. No.** 9/2005/0089/F**Applicant:**

Mr M Wilmot
 Slade House Rose Lane
 Ticknall
 Derby
 DE73 1JW

Agent:

Mr. Eric J. Lee
 Pennside
 Penn Lane
 Melbourne
 Derbyshire
 DE73 1EP

Proposal: The erection of a dwelling, the blocking of Rose Lane to Main Street and opening Rose Lane to Ingleby Lane and provision of a turning head on Rose Lane at Slade House Rose Lane Ticknall Derby

Ward: Hartshorne/Ticknall

Valid Date: 24/01/2005

This application has been brought to Committee on the instruction of Councillor Jones.

Site Description

Slade Farm House, a grade II listed building within the Ticknall Conservation Area, is at the end of Rose Lane and on its western side. The site for the proposed dwelling is occupied by a double garage of relatively recent construction which is some 6m from the west side of Slade Farm House and some 11m north of the neighbouring dwelling which was converted from former farm buildings. The site is bounded on its east side by the playground to Dame Catharine School.

The house is set within a large garden, whose boundaries have recently been fenced following the grant of planning permission.

Proposal

It is proposed to remove the existing double garage and construct a three-bedroom, two storey dwelling. The dwelling would be some 6m from Slade Farm House and 18.5m from the neighbouring dwelling. It has been designed to take on the appearance of a traditional farm building converted to a dwelling. The front elevation visible from Rose lane would be single storey in appearance constructed in brick and stone with a large central glazed opening. The building would be L shaped in plan with the front leg 11.8m wide by 5.2m deep by 3.8m to the eaves and 7.3m to the ridge and the rear wing extending to 5.6m by 5.1m wide by 3.8m to the eaves and 7.3m to the ridge. The dwelling would benefit at its front from an existing drive and parking area off Rose Lane.

The Highway Authority has previously discouraged further residential development on Rose lane because of the very sub-standard junction with Main Street. For this reason it is also proposed to reprioritise Rose Lane to ensure that vehicles to the new dwelling cannot use the Rose Lane/Ingleby Lane junction. This will involve the roadblock in Rose Lane being moved from its present position to a position south of the access to the new dwelling. A new turning head would be formed on Rose Lane on the south side of the new road block.

Planning History

Planning permission for a similar development, but including a garage and stable building in the garden to the southwest was refused in March 2004. The reasons for refusal were as follows:

1. The proposed garage and stable building would result in an unacceptable intrusion into an otherwise undeveloped area of open garden land which has been identified in the emerging Local Plan under ENV8 and ENV 20 as an important open space which contributes to the environmental quality of the locality and the Conservation Area.
2. The reprioritisation of Rose Lane would result in a significant increase in traffic movements close to residential occupiers who have become accustomed to the light traffic use of a cul-de-sac bringing an unacceptable and unfamiliar level of noise and disturbance which would be detrimental to occupier's amenity.

An appeal was lodged and subsequently dismissed. The Planning Inspector dismissed the appeal on grounds that the proposed garage and stables building would have an unacceptable detrimental impact on both the openness of the adjoining designated important open space and the character and appearance of the Conservation Area.

In response to the second reason for refusal the Inspector provided the following statement:

“The change to the position of the barrier to through traffic in Rose Lane would result in service vehicles to the school, and traffic generated by the proposed dwelling, using the length of Rose Lane linking to Ingleby Lane. This lane already serves a number of residential properties and the additional traffic associated with the proposed dwelling, and vehicles servicing the school, would be unlikely to result in a significant increase in noise and disturbance when compared with the existing situation. It is to be noted that parents driving their children to school are asked to park in the nearby village hall car park. I noted that this is a well-used facility, people parking here in preference to parking in Rose Lane or Ingleby Lane. The revised access arrangements would include a turning facility that would accord with the current county council highway design requirements.”

“Even if this were not to be the case, and the proposals resulted in a more noticeable level of noise and disturbance, any harm resulting from that loss of amenity would be more than outweighed by the benefit associated with the current use of Rose Lane/Highwayside junction which has seriously substandard visibility for both emerging and near side approaching vehicles. On the second issue I conclude that the proposals would not result in an unacceptable loss of amenity for residents of properties in Rose lane due to increased noise and disturbance from traffic visiting the school or accessing the proposed dwelling.”

Responses to Consultations

The Highway Authority has no objections commenting that it has previously accepted the principle of the development subject to alterations to the highway layout of Rose Lane. It adds that although a recent appeal has been dismissed for planning reasons it is noted that the Inspector indicated that the revised arrangements would result in a greatly reduced risk to motorists and other road users.

The objections of the Parish Council are summarised as follows:

- Adverse effect on the character and appearance of the Conservation Area.
- Important views, trees, gardens, open spaces and boundaries would not be preserved.
- The siting and alignment of new buildings would not preserve historic street patterns and the profile of the townscape.
- The mass, design and height of the new building would not be in scale with and respect the architecture of adjoining traditional buildings and the density and mix of uses would not be in character with the area as a whole.
- The proposal would leave no garages for either dwelling.

Objection to the road reprioritisation of Rose Lane is summarised as follows:

- It is outside the village development boundary
- Approaching traffic from the new direction would not be visible to schoolchildren passed the stone boundary wall.
- The Inspector said the preferred access to the school is via the village hall car park which is not the case and would not be suitable as the junction is in the 60mph zone.
- It is believed that the Inspector did not take into account the 5 dwellings on Slade Farm who rely on Rose Lane for overspill parking as do other residents on the lane. Opening up the lane as proposed would be hazardous to motorists due to the parked cars obscuring visibility
- Large vehicles would erode the grass verge which is an integral part of the conservation area and their removal could affect the stability of the stone wall.
- There is a rose garden that would have to be removed that is maintained by the Parish Council in memory of a local resident.
- The Highway Authority raised no objection to a bed and breakfast operating from Slade House and therefore there should be no problem with an additional two cars using the Rose Lane/Main Street junction.
- No decision should be made until speed checks and traffic volume has been assessed on Ingleby Lane in the interests of highway safety.

Responses to Publicity

Twenty letters of objection have been received which are summarised as follows:

- Proposal would create a vehicle blind spot for school children leaving the play ground entrance
- It would limit access for emergency vehicles
- Possible release of Anthrax spores
- Would not preserve or enhance the character or appearance of the Conservation Area
- Result in loss of green space
- Result in difficult access for the fuel tanker

- The existing and proposed house would be too close to each other
- Loss of existing rose bed.
- Visibility around the Ingleby Lane/Rose Lane junction is often obscured by parked vehicles
- The Ingleby lane junction is potentially more dangerous than the Main Street junction due to traffic volume and speeds and poor visibility
- The proposed dwelling could use the same access now that the bed and breakfast no longer operates from Slade House.
- The Inspector has underestimated the amount of traffic that would be diverted along Rose Lane by the road changes
- Holly trees would need to be removed along the boundary which contribute to the character of the area.
- An alternative should be considered of improving the Rose Lane/Main Street junction.
- It would cause parking difficulties for residents of Rose Lane
- It would cause loss of amenity for residents of Rose Lane
- It would result in danger or pedestrians on a narrow lane that has no pavements in places
- It would breach neighbours human rights under Article 8 of the Human Rights Act.
- Development outside the village development boundary

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5; Environment Policy 9, 10 and 16

Local Plan: Housing Policy 5; Environment Policy 12 and 13; Environment Policy 9

Emerging Local Plan: H1; ENV19; 20 and 21

Planning Considerations

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

- Whether the development preserves or enhances the character or appearance of the Ticknall Conservation Area;
- Impact on the setting of the listed building
- Loss of tree cover
- Impact on highway safety and vehicle accessibility
- Impact on the amenity of neighbouring residents

Planning Assessment

Impact on the conservation area and setting of the listed building

Apart from the building being sited a further 3.5m from the neighbouring house, it is the same as the previous submission (other than the fact that the additional garage and stable buildings are omitted). The Council raised no objection to this part of the development which is considered to be acceptable in design terms and sympathetic to the character of the area.

Loss of tree cover

Two holly trees affected by the development could be retained if desired although their root system is likely to be damaged to accommodate the development. Members previously accepted the view that the benefits to be gained by replacing the existing garage with this more sympathetic building would outweigh any amenity value of the trees and their loss would not be sufficient to refuse the application. The position has not changed in this regard.

Impact on highway safety and vehicle accessibility and Impact on the amenity of neighbouring residents

The Planning Inspector recognised the benefits to highway safety of reprioritising Rose Lane and said "any harm resulting from that loss of amenity would be more than outweighed by the benefit associated with the greatly reduced risk to motorists and other road users". He said that even if parents did not use the village car park when driving children to school this statement would apply.

In view of their being no good reason to the contrary, the advice of the Highway Authority and the contents of the appeal decision should be heeded.

Alterations to the closure of Rose Lane will need to be the subject of an Order under the 1990 Town and Country Planning Act, confirmed and implemented prior to any development being commenced. The Order would be made by the Government Office for the East Midlands.

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. The construction of the dwelling hereby approved shall not commence until the highway works have been completed in accordance with the approved plans and to the written satisfaction of the Local Planning Authority.

To ensure the highway works are completed in the interests of highway safety.

3. No development shall commence on site in connection with this approval until samples of materials for the external elevations of the buildings 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 samples.

Reason: To ensure the materials are appropriate for the Ticknall Conservation Area and the setting of the grade II listed building.

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

Reason: The details submitted are inadequate to determine whether the appearance of the buildings would be acceptable for the Ticknall Conservation Area and the setting of the grade II listed building.

5. The precise type and size of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the building, the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

6. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

7. External joinery including the boarding to the stable shall be painted timber to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The approved paint shall be applied before the buildings are brought into use.

Reason: To preserve the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

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.

Reason: In the interests of preserving the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

9. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: To preserve the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

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

Reason: To preserve the character and appearance of the Ticknall Conservation area and the setting of the grade II listed building.

11. 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. The pointing shall be carried out in accordance with the agreed sample panel.

Reason: To preserve the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, no development within the curtilage of the proposed dwelling house under Schedule 2, Part 1, Class A, B, C, D, E, H and Part 2, Class A of that Order (except as authorised by this permission or required by any condition attached thereto), without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over any future changes to the dwelling and its curtilage in the interests of preserving the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

13. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft 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: To safeguard the amenity of the area.

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

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

15. No part of the development shall be carried out until precise details of paving patterns, specifications and samples of the materials to be used in the hard landscaping works 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: To ensure the materials are appropriate to preserve the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

16. The windows on the south and west elevations shall be obscure glazed before the development is brought into use and remain as such in perpetuity. The entrance hall window shall be etched glass unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the privacy of occupiers and the use of etched glass in the interests of the appearance of the building.

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

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

22/03/2005

Item 1.7

Reg. No. 9/2005/0141/F

Applicant:
 Tamworth Co-Operative Society
 5 Colehill
 Tamworth
 Staffordshire
 B79 7HJ

Agent:
 Hadon Ritchie Bailey
 The Manor House
 Lichfield Street
 Tamworth
 Staffordshire
 B79 7QF

Proposal: **The erection of a new convenience store and A3 unit at Greenfield Store Service Station Main Street Rosliston Swadlincote**

Ward: **Linton**

Valid Date: **07/02/2005**

This application has been brought to Committee on the instruction of Councillor Southern.

Site Description

The application site is a vacant area of open land, which is used for informal parking in association with the existing, adjoining, village shop. The existing shop is located directly to the west of the site. The application site was formerly a petrol filling station and garage. The rear of the site, demarcated from the former garage by a brick wall, is part of the official car park, which serves the existing shop. The site is in a village centre location with residential properties to the east and south.

Proposal

The scheme proposes the construction of a single storey 267 square metre convenience store and attached, 93 square metre hot food takeaway unit. Seven parking spaces are proposed at the front of the building and a gated access to the eastern side of the building leads to a servicing area. The proposed building features a hipped roof design which extends to 8.5 metres in height. The front elevation facing Main Street has a gabled entrance feature offset to the east of the centre line and glazed shop frontages along the rest of its length. The building is to be constructed of red bricks and interlocking roof tiles.

Planning History

As stated above the site was formerly a petrol filling station and garage and since the structures were demolished has been used as an informal parking area for the shop.

In 2003 planning permission was granted for the erection of two four bedroom, detached, houses on the site.

Planning application reference 9/2005/0142/F for the construction of two four bedroom dwellings on the adjoining land is also reported on this agenda and the two applications should be considered concurrently.

Responses to Consultations

The Environmental Protection Manager has requested conditions requiring that a site investigation into contamination is completed prior to the commencement of development, that a noise report is completed prior to the commencement of development, restricting opening hours on the hot food takeaway and that a scheme for the minimisation of cooking odours is submitted before the unit is brought into use.

The County Highway Authority has commented that they expressed concern when the previous application for the two dwellings was considered about the consequential loss of parking facilities associated with the existing retail premises and the displacement of vehicles onto the classified road, however the application was approved. The Highway Authority state that the current applications create similar concerns from a highway aspect and taking the proposals in their entirety, are regarded as over intensive. The car parking space associated with the convenience store and A3 unit is limited, resulting in the potential for on-street parking. Further, it is considered that the servicing arrangements are such that any large vehicles are likely to be reversed into the site from the classified road, contrary to the best interests of highway safety.

Responses to Publicity

Five letters of representation have been received from the occupiers of neighbouring dwellings, raising the following issues:-

- The hot food takeaway unit will encourage antisocial behaviour due to people congregating there, leading to problems with vandalism, noise, traffic noise, odours, food waste, lack of car parking and litter.
- A takeaway use would not be economically sustainable in Rosliston and is not in keeping with a rural location.
- Late night opening would have an adverse affect on the village environment and on the amenity of the occupiers of dwellings adjoining the site. The Applicant has specified that opening would be as existing unit but this is only until 20:00 hrs on weekdays and Saturdays and 17:00 hrs on Sundays, these hours are not compatible with a take away unit and the operator may want to stay open until later.
- The plot is not large enough to support 2 shops and associated parking and servicing. Large delivery vehicles visit the shop, which would take up the entire parking area causing people to park on the street. This would cause problems for the school and make crossing the road hazardous.
- Rosliston is already well served by takeaway businesses from adjacent villages, which offer free delivery.
- The plans would alter the street scene and detract from an attractive village.
- The plans would compound existing traffic problems, following expansion of the store some years ago traffic has increased in volume already.

- At the present time there can be as many as 20 vehicles parked on the service station area and the proposed plans are allocating only 7 spaces for two units. There are already four members of staff who travel to work by car and with the associated hot food unit the development may end up with no customer parking. The on-road congestion could pose a serious danger for primary school children who walk past the site on a frequent basis.
- The information provided on the form by the applicant with respect to details of vehicles unloading including information on size of delivery vehicles, staff vehicles, customers/visitors vehicles, process and waste does not reflect the current situation at the shop. There are more deliveries, staff and customer vehicles than stated and at least 1 large skip of rubbish is removed per week.

A petition has also been received stating that the undersigned 'wish to register our objection to the introduction of a take away food outlet (A3 unit) as part of Greenfield Store. In particular, our concern is for the effect of such a unit on the environment, e.g. cooking odours, litter, unsociable hours of business and potential traffic problems.' 110 people have signed the petition.

Structure/Local Plan Policies

Joint Structure Plan: Town Centre and Shopping Policy 5

Local Plan: Shopping Policy 3, Transport Policy 6

Emerging Local Plan: Policies S7, S10, T1 and ENV 21

Planning Considerations

The main issues central to the determination of this application are the principle of a shop and hot food takeaway unit in this location, the impact of the scheme on the amenity of the occupiers of neighbouring dwellings and traffic/ parking considerations.

Planning Assessment

The site is a brownfield site located within a serviced village and adjoining the existing village shop. A1, retail, and A3, hot food and drink uses are appropriate in principle in this location in accordance with the provisions of Policies S7 and S10 of the emerging local plan, subject to the issues of impact on residential amenity and traffic/ highway safety issues.

The proposed scheme is for an A1 shop unit and A3 hot food takeaway unit, with a joint retail floor area of 360 square metres. The existing shop, which is located on the adjoining site, has a retail floor area of 205 square metres and therefore a significant increase in retail floor space is proposed. The existing village shop has a small parking and servicing area at the rear, up to 10 car parking spaces can be provided. The current scheme proposes the creation of 7 parking spaces at the front of the building. The current application site has been used informally for parking for the shop for a considerable period of time, this has never been a formal arrangement and the site could be fenced off at any time. Therefore at present significant parking space is available for the shop and concerns have been raised both by local residents and the Highway Authority that the loss of the informal parking would result in the potential for on street parking to the detriment of highway safety. However the shop is a village facility for the purchasing of convenience goods and it would not be sustainable to provide a large parking area, this would encourage more short journeys by private car. The proposed hot food takeaway would stay open until 11 pm and would generate most business at different hours to the shop, which closes at 8 pm. Therefore the provision of 7 spaces for both uses is considered sufficient. In a sustainable village location lack of parking provision is not considered to be an issue that could form the

basis of a reason for refusal given the maximum standards set out in the appendix to the emerging Local Plan. The proposed parking would be positioned at the front of the building, which is a more convenient location than the parking at the rear of the existing shop. The Highway Authority also raises concern that the servicing arrangements are likely to result in vehicles being reversed into the site from the classified road, which is currently the case for the larger vehicles which service the existing shop.

The proposed A3 unit is located to the west of the application site between the convenience store to the east and the proposed new dwellings to the west. The Environmental Protection Manager has raised no objection to the proposed A3 unit and has recommended conditions controlling noise, odours and hours of opening. It is considered that subject to these requirements and limitations the proposed development will not have a significantly detrimental impact on the occupiers of neighbouring dwellings.

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 part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. The areas shown on the submitted plan no 5313 11 for the parking and manoeuvring of vehicles shall be laid out, hard surfaced and marked out prior to the first use of the development hereby permitted. Thereafter those areas shall remain unobstructed for their designated use.
Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.
4. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the area.
5. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
Reason: In the interests of the appearance of the area.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

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

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

8. Prior to the commencement of development a noise report should be submitted to and approved in writing by the Local Planning Authority. Any measures identified in the approved report to mitigate against noise issues shall be implemented prior to the first opening of the shop and hot food takeaway.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

9. Prior to the commencement of development full details of the hours of deliveries to the shop and hot food takeaway shall be submitted to and approved in writing. Deliveries shall then be made within the previously approved time periods.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

10. The A3 unit hereby permitted shall not be open to customers outside the following times: 12:00 hours to 23:00 hours Monday to Saturday and 12:00 hours to 22:00 hours on Sundays.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

11. Prior to the commencement of development a scheme for the minimisation of cooking odours from the hot food takeaway shall be submitted to and approved in writing by the Local Planning Authority. The measures that have been identified within the scheme shall then be put in place prior to the first opening of the takeaway.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

12. If a flue is to be installed in connection with condition 11 above full details of the design and position of the flue shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

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

13. No work shall take place on the site until an adequate site investigation and assessment of contamination and the measures to be taken to avoid risk to people or the environment has been undertaken and submitted to the Local Planning Authority, and the development shall incorporate any measures shown in that assessment to be necessary for the removal or containment of any contaminated material when the site is developed. The site investigation will include:
1. A desktop study of the area of the proposed development.
 2. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
 3. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at the site.
 4. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

Informatives:

In connection with condition 13 above the site investigation shall include the following:

- Details of an overview of the initial walkover survey to include the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- Detailed on site sampling to identify any contamination.
- The locations of any contaminated zones within the site including details of more extensive and geographically wider investigation of these zones. This will provide a more reliable picture of the distribution of contamination on the site and reduce the risk of failing to discover a hot spot of contamination.
- An assessment of any off site impacts such as the effect on watercourses etc.
- A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- Plan of action if further contamination is identified during remediation.
- Details of the measures to verify that the contaminant has been removed to an acceptable level. The identification as to whether a long term monitoring and maintenance programme is required, if so, details of the plans.
- Details of the long and short term risk to human health including the construction phase and post development.
- Details of the British Standards or other guidelines used in both the assessment and remediation measures proposed.

Further guidance can be obtained from the following:

1. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
2. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
3. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.

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.

22/03/2005

Item 1.8

Reg. No. 9/2005/0142/F

Applicant:
 Tamworth Co-Operative Society
 5 Colehill
 Tamworth
 Staffordshire
 B79 7HJ

Agent:
 Hadon Ritchie Bailey
 The Manor House
 Lichfield Street
 Tamworth
 Staffordshire
 B79 7QF

Proposal: The demolition of the existing store and the erection of two 4 bedroom houses at Greenfield Store Service Station Main Street Rosliston Swadlincote

Ward: Linton

Valid Date: 07/02/2005

This application has been brought to Committee on the instruction of Councillor Southern.

Site Description

The village shop and post office is currently located on the application site. The shop has vehicular access from Main Street to a car parking area at the rear of the shop, the adjoining vacant site, to the east, is also used for informal parking for the shop. The site is in a village centre location and there are dwellings to the west and south of the site.

Proposal

The application proposes the construction of two, detached, four bedroom houses with integral single garages and an additional parking and turning area at the front of the dwellings.

Planning History

Planning permission was granted in 2003 for two detached four bedroom dwellings on the adjoining land which is currently used for informal parking for the shop.

Planning application reference 9/2005/0141/F for the relocation of the village shop and post office to the adjoining land is also reported on this agenda and the two applications should be considered in conjunction with one another.

Responses to Consultations

The County Highway Authority has commented that they expressed concern when the previous application for the two dwellings was considered about the consequential loss of parking

facilities associated with the existing retail premises and the displacement of vehicles onto the classified road, however the application was approved. The Highway Authority state that the current applications create similar concerns from a highway aspect and taking the proposals in their entirety, are regarded as over intensive. The car parking space associated with the convenience store and A3 unit is limited, resulting in the potential for on-street parking. Further, it is considered that the servicing arrangements are such that any large vehicles are likely to be reversed into the site from the classified road, contrary to the best interests of highway safety.

Responses to Publicity

Responses have been received with respect to the planning application for the relocation of the shop and proposed takeaway, reference 9/2005/0141/F, two letters have been copied to both files and the comments are fully reported on the report for the shop and takeaway.

One letter has been received objecting to the application on the grounds of loss of the village shop and post office.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5
 Local Plan: Housing Policies 5 and 11
 Emerging Local Plan: Policies H1, ENV 21 and S8

Planning Considerations

The main issues central to the determination of this application are the principle of residential development in this location, the loss of the existing shop and the design, appearance, access and siting of the proposed dwellings.

Planning Assessment

The application site is a brownfield site located within the village of Rosliston, which is a serviced village, and where there is a presumption in favour of residential development in accordance with the provisions of Policy H1 of the emerging local plan.

The siting of the proposed dwellings to the rear of a garden/ parking area is considered acceptable and reflects the siting of all surrounding dwellings. The design and external appearance of the proposed dwellings are considered acceptable. The proposed scheme makes provision for two parking spaces per dwelling which accords with the Council's parking standards. The Highway Authority has raised concerns over the loss of parking provision for the shop when the two current planning applications are considered together. However permission already exists for the retention of the existing shop and construction of two dwellings and in view of the fact that the current submission meets the Council's parking standards it is not considered that a refusal could be justified on grounds of loss of parking for the shop.

Policy S8 of the emerging local plan states that development, which involves the loss of retail outlets, will only be permitted in specific circumstances. This application when considered in isolation is contrary to the provisions of Policy S8, however when considered together with planning application reference 9/2005/0141/F for the relocation of the shop the scheme is

acceptable. Therefore if the Committee were minded to refuse the application for the relocation of the shop then this application should also be refused on grounds of loss of retailing facilities. However if application reference 9/2005/0141/F were considered to be acceptable the two applications should be linked by condition to ensure that the retail facility is opened to the public prior to the construction of the dwellings.

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 part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. The car parking areas/ manoeuvring areas shown on the submitted plan no 5313 11 shall be hard surfaced with a solid bound material prior to the first occupation of the dwellings and thereafter retained for that purpose free of obstruction.
Reason: To ensure that adequate parking provision is made available.
4. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the area.
5. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).
Reason: To protect the amenities of adjoining properties and the locality generally.
6. No work shall take place on the site until an adequate site investigation and assessment of contamination and the measures to be taken to avoid risk to people or the environment has been undertaken and submitted to the Local Planning Authority, and the development shall incorporate any measures shown in that assessment to be necessary for the removal or containment of any contaminated material when the site is developed. The site investigation will include:
 1. A desktop study of the area of the proposed development.
 2. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.

3. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at the site.

4. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

7. The development shall not be commenced until the new shop the subject of planning application reference 9/2005/0141/F has been constructed and opened for business.

Reason: To ensure that there is no loss of retailing facilities contrary to the provisions of Policy S8 of the Revised Deposit Draft South Derbyshire Local Plan.

8. Notwithstanding the submitted details the roof pitches on the houses shall be raised to 35 degrees and bargeboards shall not be used unless otherwise agreed in writing by the Local Planning Authority. Revised eaves and verge details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and the eaves and verges shall be constructed in accordance with the submitted details.

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

9. Notwithstanding the submitted details, render shall not be used on the dwellings, the properties shall be finished entirely in red brick unless otherwise agreed in writing by the Local Planning Authority.

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

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.

In connection with condition 6 above the site investigation shall include the following:

- Details of an overview of the initial walkover survey to include the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- Detailed on site sampling to identify any contamination.
- The locations of any contaminated zones within the site including details of more extensive and geographically wider investigation of these zones. This will provide a more reliable picture of the distribution of contamination on the site and reduce the risk of failing to discover a hot spot of contamination.
- An assessment of any off site impacts such as the effect on watercourses etc.
- A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.

- Plan of action if further contamination is identified during remediation.
- Details of the measures to verify that the contaminant has been removed to an acceptable level. The identification as to whether a long term monitoring and maintenance programme is required, if so, details of the plans.
- Details of the long and short term risk to human health including the construction phase and post development.
- Details of the British Standards or other guidelines used in both the assessment and remediation measures proposed.

Further guidance can be obtained from the following;

1. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
2. Investigation of Potentially Contaminated Lane Sites - Code of Practice, BSI 10175 2001.
3. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.

With regard to condition 8 above, eaves and verges should be constructed in brick and gutters mounted on rise and fall brackets.

22/03/2005

Item 1.9**Reg. No.** 9/2005/0168/U

Applicant:
 Mr N Hodgkiss
 Cuttlebridge Cottage Derby Road
 Swarkestone
 Derby
 DE73 1JB

Agent:
 Mr N Hodgkiss
 Cuttlebridge Cottage Derby Road
 Swarkestone
 Derby
 DE73 1JB

Proposal: **The change of use from farm land into a drive and garden at
 Cuttlebridge Cottage Derby Road Swarkestone Derby**

Ward: **Aston**

Valid Date: **16/02/2005**

The application is brought to Committee on the instruction of Councillor Atkin

Site Description

The site is the corner of a field situated adjacent to the applicant's dwelling and garden.

Proposal

The land would be included in the garden and a new vehicular access would be formed. The existing access, situated closer to the road junction would be closed.

Planning History

An application to retain a boundary fence (involving change of use of highway land) and windows in an outbuilding is presently under separate consideration (9/2005/0011/F).

Responses to Consultations

The Highway Authority has no objection in principle.

The Parish Meeting has not commented.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Environment Policy 1

Emerging Local Plan: Policy ENV3

Planning Considerations

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

- The principle.
- Impact on the character of the countryside.
- Highway safety.

Planning Assessment

The proposal would use a small parcel of low-lying land immediately adjacent to the existing garden. As such the principle of the proposal is not in conflict with strategic policies for development away from settlements.

The site would be viewed against the backcloth of the existing garden. Therefore subject to appropriate boundary treatment there would be no significant impact on the character of the countryside.

On the advice of the Highway Authority there would be no demonstrable harm to highway safety interests.

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. The access shall not be taken into use until the existing access shown on the submitted plan has been permanently closed in accordance with a scheme first submitted to and approved by the Local Planning Authority.
Reason: In the interests of highway safety.

5. The access shall not be taken into use until the application site frontage has been cleared of all obstructions exceeding 1m in height relative to road level for a distance of 2m from the carriageway edge. Thereafter the frontage shall be permanently maintained free of such obstructions.

Reason: In the interests of highway safety.

6. The access shall be minimum 5m wide for a distance of 5m from the highway boundary.

Reason: In the interests of highway safety.

7. Prior to the first use of the access it shall be surfaced with a solid bound material i.e. not loose chippings, for a minimum distance of 5m from the highway boundary. Thereafter it shall be so maintained.

Reason: In the interests of highway safety.

8. There shall be no gates within 5m of the highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

01/03/2005

Item 1.2**Reg. No.** 9/2004/1595/F**Applicant:**

Barhale Construction Plc
 Barhale House
 Bescot Crescent
 Walsall
 West Midlands
 WS1 4NN

Agent:

Barhale Construction Plc
 Barhale House
 Bescot Crescent
 Walsall
 West Midlands
 WS1 4NN

Proposal: The construction of temporary site offices and welfare units (for construction of new sewers in the area) with associated car parking on existing hardstand at Land To The West Of Stenson Road Stenson Derby

Ward: Stenson

Valid Date: 18/01/2005

Site Description

The site is part of the yard to a former farmstead at the edge of the urban area, separated from it by Stenson Road.

Proposal

The development seeks to retain site offices and their associated parking area for a temporary period. These would be ancillary to a nearby infrastructure project (sewers).

Responses to Consultations

Stenson Fields Parish Council asks that the contractors should ensure roads are regularly cleaned of mud.

The Highway Authority and Environmental Health Officer have no objection in principle.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 3 & 4.

Local Plan: Environment Policy 1.

Planning Considerations

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

- The principle.
- Residential amenity.
- Highway safety.

Planning Assessment

The site lies outside the boundary of the built up area. However it is well related to that area and could be construed as in accord with Structure Plan General Development Strategy Policy 3. However for the purpose of the adopted local plan the site is outside the settlement and development needs to be necessary to such a location. For practical reasons the contractor has chosen the site as base for the sewer project. It is understood that the reason for this is the lack of available land on the line of the sewer itself. In these circumstances and having regard to the temporary nature of the use the principle is acceptable.

On the advice of the Highway Authority there would be no demonstrable harm to safety interests. The site is used for offices, staff facilities and parking. It is not a main compound for heavy plant. As such a condition requiring wheel-washing facilities would be unduly onerous.

Subject to a condition controlling noise from generators there would be no harm to residential amenity.

Recommendation

GRANT permission subject to the following conditions:

1. This permission shall be for a limited period only, expiring on 31 March 2006 on or before which date the structure(s) shall be removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: The site is within open countryside where the Development Plan provides that development shall be confined within the limits of an existing town or village, except where the needs of agriculture or other overriding reasons justify a departure from that policy.

2. The noise from any generators shall be attenuated so as not to be audible at the nearest residential property.

Reason: In the interests of the aural amenities of the occupiers of nearby residential property.

3. The parking and manoeuvring areas shown on the submitted plan shall be retained available for that purpose for the duration of the use hereby permitted.

Reason: In the interests of highway safety.

APPEAL DISMISSED

Appeal by Mr Brockley

The erection of a detached bungalow in the side garden of Friary House, Hilton Road, Etwall, Derby (9/2003/1549)

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

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 HI & 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.

Main Issues

The Inspector considered that the main issue in this appeal was whether the principle of the proposed development is in accord with national and local policies requiring the sustainable location of development.

Local plan policies set out overall principles of sustainable development, including minimising the overall need to travel by ensuring convenient access between homes, jobs and services and development in locations well served by public transport. New development must, amongst other things, be located within or well related to settlements and avoid prominent intrusion into the countryside. Development should only be permitted away from settlements if it is appropriate in such a location. Housing development in villages is restricted to the village framework or wider confine of a settlement.

Policies restrict new development outside settlements to those which are essential to a rural based activity which is unavoidable in the countryside. New housing developments are limited to that which can be accommodated within the village confines. Infilling is also limited to no more than two dwellings of small gaps in other rural settlements. Housing in the countryside may be permitted where it is necessary to a rural based activity and is well related to farm buildings and other dwellings.

It was stated that the appeal site is located towards the edge of a group of dwellings and outbuildings situated close to the main approach road into the village of Etwall from Hilton and adjacent to its junction with the village by-pass. This group of buildings does not constitute a settlement in the Inspectors view due to its separation by agricultural land.

There is planning permission for a portable structure which will be replaced should the appeal be allowed. But no special need for the proposed dwelling has been put forward.

The main thrust of local plan policies regarding development is that it should generally be restricted to remain within village confines.

The appeal site is situated in the countryside and therefore the proposal is not in accord with rural housing policies.

The appellant considers that although the appeal site lies outside the boundary of Etwall the proposal would comply with sustainable development objectives. There are a number of services close to the appeal site and a half hourly bus service running past.

The Inspector believes that the above criteria are primarily intended to guide the selection of housing sites as part of the local plan preparation process. Planning permission for a dwelling at the appeal site was granted in 1997 and has now lapsed, since this time local plan policies regarding development within the countryside have changed significantly.

It was conclude that the principle of the proposal is contrary to national and up to date local policies requiring the sustainable location of development.

For the reasons given above and having regard to all other matters raised, the Inspector concludes the appeal should be dismissed.

APPEAL DISMISSED

Appeal by Mr & Mrs Swales

The conversion of the existing garage into a dwelling at 71, Barley Cottage, Ashby Road Ticknall, Derby (9/2004/0141)

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

The proposal being outside the village boundary is contrary to Policy H1 of the South Derbyshire Local Plan Revised Deposit Draft (January 2003) and PPG7. The proposal if allowed could lead to this type of situation being too easily repeated outside the village development boundary where residential development would normally be resisted in the interests of safeguarding the character of the existing settlement pattern and surrounding countryside contrary to environment Policy 12 of the Local Plan and Policy ENV 20 of the Local Plan Revised Deposit Draft (January 2003).

Main Issues

The main issues are the effect of the proposal on the character and appearance of the area.

Planning policies indicate that new housing in rural areas will be restricted to that which can be accommodated within the built framework or wider physical confines of villages.

The appeal site is situated within Ticknall Conservation Area. Local plan policies seek to protect the character and appearance of Conservation Areas.

Although there has been some modern housing development in the village the Inspector viewed that Ticknall is modest in size.

The appeal site lies towards the southern edge of the village and comprises a relatively modern, brick built pitched roof detached garage located in the large garden of No. 71 Ashby Road which is a semi-detached cottage. The extension would be two-storey and as such would not be subordinate to the existing garage due to its greater height and significant amount of additional floor space created.

Because the building is sited close to the highway, the extension would be prominent in the street scene. It is also viewed that the form, design and facing materials of the proposal would broadly reflect the form and scale of other properties around the appeal site. Therefore the Inspector considered that the proposal would not have an unacceptable impact on the appearance of the Conservation Area.

There is a contrast between the sporadic nature of the existing development on this stretch of Ashby Road and the more densely-knit core of the village. The appeal site is essentially rural in character due to the large open area of land between it and the neighbouring properties. As such the Inspector sees fit that the appeal site cannot reasonably be described as being within the built framework or wider confines of the village and therefore should be judged against policies, which restrict new housing in the countryside.

The creation of a dwelling with an extensive domestic curtilage would be seen as a significant extension of urban development within a mainly rural setting that would be materially harmful to the character of the countryside.

Reference was made to the conversion of a barn nearby which was allowed at appeal but draws attention to the fact that limited rebuilding was required.

No special justification has been provided to permit a dwelling in this location, such as to meet a local housing need. Also the proposal would not be feasible as substantial changes would have to be made and this would be contrary to local plan policies.

With regard to the appellant suggesting that other similar applications have been granted nearby the Inspector viewed that he did not have the information with regards these applications and that he took the view that the proposal at the appeal site would not harm the character or appearance of the Conversation Area but that it would materially harm the character and appearance of the countryside.

Reference was made to the local residents expressing concerns over increased traffic along the shared driveway and the increased vehicular turning onto Ashby Road. No objections were received from statutory bodies on these grounds and the Inspector shared the view.

The Inspector concluded that for the reasons previously mentioned and having regard to all other matters the appeal should be dismissed.

APPEAL ALLOWED

Appeal by Mr & Mrs Sudbury

Outline application (all matters except siting to be reserved) for the residential development of Part Of Gardens At 1 And 2 The Green, Weston-on-Trent, Derby (9/2003/1550)

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

- 1. Visibility at the access to the application site is substandard, as is visibility for drivers emerging from The Green onto the classified Main Street. The introduction of additional vehicle movements at both the site access and The Green/Main Street junction would be contrary to the best interests of highway safety.*
- 2. The proposal would not be infill and would result in a prominent visual intrusion into the open rural fringe of the village, not in keeping with its scale and character. Furthermore residential development at this site would lead to increased reliance on the private car for transport as Weston on Trent is not a serviced settlement, counter to the objectives of sustainable development. Therefore the proposal is contrary to the following development plan policies: Derby and Derbyshire Joint Structure Plan General Development Strategy Policies 1 & 3; South Derbyshire Local Plan Housing Policy 5B; and Emerging Local Plan Policies H1 & ENV21.*
- 3. The proposed dwellings would likely result in loss of amenity to the occupiers of adjoining dwellings because of overlooking, contrary to Housing Policy 11 of the adopted South Derbyshire Local Plan.*

Main Issues

- (i) The effect of the proposal on the Councils strategy relating to sustainable development
- (ii) The effect of the proposal on the character and appearance of the surrounding area
- (iii) The effect of the proposal on the living conditions of the occupiers of No.3 The Green with particular regard to overlooking
- (iv) Whether the proposal would be prejudicial to highway safety.

Local plan policies require that development should respect the principles of sustainability. It is also required in local plan policies that new development is located within or well related to settlements, respect patterns of land and make full and effective use of opportunities for redevelopment of land and avoid prominent intrusion into the countryside.

The appeal site is located on the Northern side of The Green and comprises part of the rear gardens of Nos 1 and 2 The Green which are a pair of cottages.

Sustainable Development

The Inspector did not consider Weston on Trent as a serviced village as there is no food shop. The appellant suggested that the services which are not provided by Weston on Trent can be located in Aston on Trent, but the Inspector stated that the two villages are separate. The policies relating to the appeal site would allow sufficient development to prevent stagnation of Weston on Trent in the Inspectors opinion. Due to the fact that occupiers of the proposed properties would be reliant on the private car the inspector believes that the development is not sustainable. It was concluded that the proposal would be contrary to the Councils strategy relating to sustainable development.

Character and Appearance

The Inspector stated that the appeal site would be visible as the village is approached from Aston on Trent and the appeal properties gardens contribute to the character of the village. The development

would create a more dense and urban appearance at the village fringe and would be out of keeping with the scale and character of the settlement. He concluded that the proposal would cause significant harm to the character and appearance of the surrounding area and would also be contrary to local plan policies.

Living Conditions

The Inspector believes that the design of the proposed properties could be carried out in such a way to be dealt with by means of condition to prevent loss of privacy.

The occupiers of No.3 have expressed concern that the proposal would impact on light to their property but the any loss would be insignificant.

The Inspector concluded that the proposal would not cause significant harm to the living conditions of the occupiers of No.3 The Green.

Highway Safety

The appeal site is located on an unclassified road subject to a 30mph speed limit where visibility of the access, the speed on the road and the fact that traffic flows are unlikely to be high amount to an acceptable application that would not be prejudicial to highway safety.

Conclusion On Main Issues

Although the Inspector concluded that proposal would not cause significant harm to the living conditions of the occupiers of No. 3 The Green and would not be prejudicial to highway safety it was also concluded that the development would be contrary to policies relating to sustainable development and would cause significant harm to the character and appearance of the surrounding area. In the Inspectors view the harm which has been outlined is sufficient enough to justify dismissing the appeal.

APPEAL ALLOWED

Appeal by Mr & Mrs Mitchell

Outline application (all matters to be reserved except for access) for the residential development of Land To The Rear Of 127 Station Road, Hatton, Derby (9/2004/0026)

The application was granted permission subject to conditions. The condition in dispute (Condition 6) limits the site to only one bungalow.

Main Issues

It was noted that the appellant was in disagreement with the issue that the dwelling should be single-storey not that it was a single dwelling. The Inspector considered whether the conditions was reasonable and necessary in the interests of: (i) Maintaining the character and appearance of the locality, and (ii) Protecting the living conditions of the occupiers of adjoining residential properties, having particular regard to the privacy and visual intrusion.

Local plan policies allow for new development in villages including Hatton, providing that it is in keeping with the scale and character of the village.

The appeal site is described as comprising part of the large side and rear garden of an existing detached dwelling situated close to Station Road, within a predominantly residential area. The site is bounded on three sides by hedges and screen fences with mature planting particularly at its southern edge. The Inspector also pointed out that there is an area of local open space fronting Granville Close, which lies to the rear of the site with a variety of other, more modern 1 and 2-storey dwellings, around the site. The Inspector considered that the condition in question is relevant to planning, relates to the development and was enforceable and precise. It was also not considered that the condition was imposed unreasonably.

However, the position of the proposed dwelling would be situated between two 2-storey properties therefore a 2-storey dwelling on the appeal site would be more in keeping with the general characteristics of the immediate locality and the scale and character of existing properties. The density of the scheme appears to be in general conformity with the surrounding area and would not involve over-intensive development. It was stated that the appeal site is well screened and does not form part of the frontage development to Station Road and if built as a two-storey house would not unduly enclose the site. The Inspector also said that he has read no SPG which argues against the layout proposed and considered that the condition was unreasonable.

It was also concluded by the Inspector that the requirement of the disputed condition was neither reasonable nor necessary in the interests of maintaining character and appearance of the locality.

