

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4.

Local Plan: Environment Policy 1.

Planning Considerations

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

- The principle of the development.
- Impact on the character and appearance of the countryside.

Planning Assessment

As the application derives from the needs of the established dwelling the proposal is capable of being acceptable in principle.

Being situated close to the existing curtilage and buildings and to the new stable in the paddock, the visual impact of the hardstanding, along with any private vehicles, would be minimal. A hardstanding could be formed immediately adjacent to the site, in the applicant's garden without planning permission and the impact would be no less.

In the event of a business use being detected there are separate enforcement powers available.

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.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. The hardstanding shall be surfaced in accordance with details and specifications that shall have previously been submitted to and approved in writing by the Local Planning Authority.
2. Reason: In the interests of the appearance of the area
3. The hardstanding shall be used for purposes incidental to the enjoyment of the dwelling known as The Hill Lodge or for agriculture only.
3. Reason: For the avoidance of doubt as the proposal affects agricultural land.

11/02/2003

Item 1.6**Reg. No.** 9 2002 1215 F**Applicant:**

Mr Mrs R Kerr
 Old School House
 Aston On Trent
 Derby
 DE72 2AF

Agent:

P. Billham
 Mr. P. Billham
 Planning & Design
 Old School Lodge
 Aston On Trent
 Derbyshire
 DE72 2AF

Proposal: The demolition of existing bungalow, carport and garage, and the erection of a house and attached garage at 3. Ingleby Road Stanton-by-bridge Derby

Ward: Ticknall

Valid Date: 18/11/2002

Site Description

The site lies in the heart of the conservation area. The subject property is one of a pair of modern bungalow style properties in the midst of mainly traditional buildings. The site slopes downwards from the highway boundary.

Proposal

It is proposed to replace the existing dwelling in its entirety with a new two storey detached dwelling with four bedrooms at first floor level. Local vernacular design is employed, featuring narrow gables and 40° roof pitches, with brick segment arches over the ground floor windows. Following negotiation with applicant the front range of the building has been lowered in height by 0.6 metre. A dormer window has also been omitted and rooflights proposed as an alternative.

Responses to Consultations

The Acting Chairman of the Parish Meeting objects for the following reasons:

- a) Concerns of neighbours are shared.
- b) The house is far too large for the plot with the east walls built right up to the boundary wall of Yew Tree Cottage.
- c) The dwelling would block out light from the east and south to Clayborn.
- d) There would be considerable noise and disturbance from building operations and associated traffic problems.
- e) The close proximity of the development to Yew Tree Cottage would involve operations being carried out from within the boundary of Yew Tree Cottage.

The Highway Authority and Severn Trent Water Ltd have no objection in principle.

Responses to Publicity

10 letters have been received from local residents raising the following objections:

- a) The existing bungalow is in keeping with size of the plot and the character of the area.
- b) The proposed dwelling is too large and would be harmful to the character and appearance of the area. It would dominate its surroundings.
- c) The dwelling would be harmful to the setting of nearby listed buildings.
- d) When permission was previously granted to develop the land it was a requirement the development should be single storey.
- e) There would be overbearing and loss of light to adjacent dwellings.
- f) Views would be lost.
- g) There would be inadequate space around the dwelling.
- h) There could be an adverse impact on the shared foul drains.
- i) The existing dwelling is perfectly adequate for a young or elderly couple.
- j) The dwelling would abut an historic wall and hamper future maintenance.
- k) The impact of the dwelling in terms of visual amenity and light and overbearing to neighbours would be exacerbated by the falling ground levels and the need to raise the rear part of the dwelling accordingly.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5 and Environment Policies 9 & 10.

Local Plan: Housing Policy 5 and Environment Policies 12 & 13.

Draft Local Plan: Housing Policy 1.

Planning Considerations

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

- The principle.
- Impact on the character and appearance of the conservation area and nearby listed buildings.
- Residential amenity.
- Highway safety.
- Drainage.

Planning Assessment

The site lies in the built up framework of the village and is an infill plot comprising previously used land. Therefore the proposal conforms to the locational policies of the development plan and the emerging local plan. Therefore the principle of the development is acceptable.

The existing (circa) 1960's building on the site is out of keeping with the traditional overall character of the area because of its design and materials. It would not conform to contemporary design guidance as set out in Historic South Derbyshire. The new dwelling follows the

principles of the guidance and the siting of the building with a wing at right angles to and close to the road is in keeping with the grain of the historic settlement. As such the proposal would enhance the character and appearance of the conservation area. By removing a modern building and replacing it with a more traditional design the proposal would not have a harmful effect on the setting of listed buildings, in particular Ivy House Farm opposite.

The proposal would impose a greater mass of building in relation to the side kitchen/dining room window of Clayborn. However the room is also served by a window in the front wall of the dwelling, which would be largely unaffected by the development. Similarly the dwelling on the other side of the site, Yew Tree Cottage, has a side window to a habitable room that would be affected but again there is another window to the front serving the same room. A utility room window would also be affected but the supplementary planning guidance affords little protection to non-habitable rooms. The main habitable accommodation of the dwellings either side and opposite would not be materially adversely affected. There would be a degree of overshadowing to the adjacent gardens but this would not be to such an extent as to render the development unacceptable.

On the advice of the Highway Authority the proposal would not be harmful to highway safety.

On the advice of Severn Trent Water Ltd the sewerage system is capable of receiving flows from the increased accommodation of the dwelling proposed. The issue of private drains is a civil matter.

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.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. SK/3 A received 27 January 2003 as amended by the faxed drawing received 28 January 2003 showing one rooflight only to the studio bedroom.
2. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.
3. Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.
4. Large scale drawings to a minimum Scale of 1:10 of 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.

4. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
5. 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.
5. Reason: In the interests of the appearance of the area.
6. Pointing of the existing/ proposed building(s) 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".
6. Reason: In the interests of the appearance of the building(s).
7. A sample panel of pointing 2 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.
7. Reason: In the interests of the appearance of the building(s) and the locality generally.
8. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.
8. Reason: In the interests of the appearance of the building(s) and the character of the area.
9. 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.
9. Reason: In the interests of the appearance of the building(s) and the character of the area.
10. 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.
10. Reason: In the interests of the appearance of the building(s), and the character of the area.
11. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered, enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.
11. Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.
12. The windows (and glazed panels to the door) in the east wall, the first floor windows in the west wall and the first floor gable window in the south wall of the building shall be permanently glazed in obscure glass.
12. Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

13. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate three cars within the curtilage of the dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), three parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site.
13. Reason: To ensure that adequate parking/garaging provision is available.
14. Any gates shall open inwards only.
14. Reason: In the interests of highway safety.
15. 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).
15. Reason: To protect the amenities of adjoining properties and the locality generally.
16. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflight shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight 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.
16. Reason: In the interests of the appearance of the building(s) and the character of the area.
17. The existing bungalow on the site shall be demolished in its entirety prior to the first occupation of the dwelling hereby permitted.
17. Reason: To ensure a satisfactory appearance to the site.

11/02/2003

Item 1.7**Reg. No.** 9 2002 1271 F**Applicant:**

Mr Mrs D C Fellows
 C/O 4, The Woodlands, The Green
 Aston-on-trent
 Derby
 DE72 2AA

Agent:

B. Williamson
 Gilson Design Consultants Ltd
 Genista
 Broomhills Lane
 Repton
 Derbyshire

Proposal: The erection of a detached bungalow at 4, The Woodlands
 The Green Aston-on-trent Derby

Ward: Aston

Valid Date: 02/12/2002

Site Description

The site is part of the garden to 4 The Green. The existing dwelling is a hipped roof Victorian building. There is a range of dilapidated and altered outbuildings to the rear of the site, only one of which remains intact. There is a high brick wall to the southern boundary of the site.

Proposal

A single storey L shaped dwelling is proposed on the site of the existing outbuildings. The existing access would be used and this would be shared with the host dwelling. A detached garage to serve the existing dwelling is also proposed.

Responses to Consultations

The Parish Council objects for the following reasons:

- a) The properties to the south of the site are not shown.
- b) The buildings to be demolished, within the conservation area, are not clearly shown.
- c) The whole of the existing south boundary should be preserved.
- d) As site visit should be undertaken and the Parish Council notified.

The Highway Authority and Severn Trent Water Ltd have no objection in principle.

Responses to Publicity

A neighbour objects as follows:

- a) The site is in the conservation area, which consists of 17th 18th and 19th century dwellings. The village received an award for the best village in Derbyshire in 2002.

- b) The old stable block to be demolished is in good repair and dates from around 1850.
- c) The building is of modern design and would be harmful to the character of the conservation area.
- d) The proposal would result in the loss of parking to the existing dwelling, with consequent increased congestion in the highway.
- e) The plan is inadequate to show the impact on the neighbouring dwelling.

Structure/Local Plan Policies

The relevant policies are:

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

Local Plan: Housing Policy 5 and Environment Policy 12.

Draft Local Plan: Housing Policy 1.

Planning Considerations

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

- The principle of development.
- The impact on the character and appearance of the conservation area.
- Residential amenity.
- Highway safety and parking.
- Drainage.

Planning Assessment

The site lies within the confines of the settlement and is identified as a serviced village in the emerging local plan. It is previously used land. Therefore the proposal is acceptable in principle.

Partial views of the site are available from The Green but its location is not highly prominent. The existing visible outbuilding has been altered and retains little of its original character and does not make a positive contribution to the conservation area. The loss of the existing building would not have a significant effect on the area. The new building is of simple design and, subject to controls over materials and detailing its impact on the character and appearance of the conservation area would be neutral. The proposed garage would similarly have a harmless effect in this regard.

Because the building would be single storey its impact on neighbours would not be materially harmful, subject to appropriate boundary treatment to ensure that privacy is maintained.

The proposal makes parking provision for the existing and proposed dwellings and on the advice of the Highway Authority there would be no demonstrable harm to the interests of highway safety.

On the advice of Severn Trent Water Ltd public sewerage is adequate for the development.

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.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.
2. Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.
3. Pointing of the proposed buildings 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".
3. Reason: In the interests of the appearance of the building(s).
4. Large scale drawings to a minimum Scale of 1:10 of 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.
4. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
5. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.
5. Reason: In the interests of the appearance of the building(s) and the character of the area.
6. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
6. Reason: In the interests of the appearance of the building(s) and the character of the area.
7. 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.
7. Reason: In the interests of the appearance of the building(s), and the character of the area.
8. Large scale drawings to a minimum Scale of 1:10 of eaves and verges, including vertical sections, shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves and verges shall be constructed in accordance with the approved drawings.
8. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
9. Prior to the commencement of other building operations the existing outbuildings on the site shall be demolished, subject to the provisions of Condition 10 below.

9. Reason: To ensure a harmonious palette of materials in the new development to preserve the character and appearance of the conservation area.
10. 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.
10. Reason: In the interests of the appearance of the area.
11. 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).
11. Reason: To protect the amenities of adjoining properties and the locality generally.
12. Prior to any other works commencing, the access to the site shall be provided with a 2m x maximum achievable visibility sightline to the north, the area forward of the sightline being maintained in perpetuity free of any obstruction exceeding 1m in height relative to the nearside carriageway edge.
12. Reason: In the interests of highway safety.
13. Prior to any other works, except condition 12 above, commencing the proposed parking and manoeuvring space shall be provided for the existing dwelling, laid out in accordance with the application drawing and maintained thereafter free of any impediment to its designated use.
13. Reason: To preserve amenity and/or prevent danger to road users.
14. Prior to the occupation of the new dwelling, space shall be provided within the plot curtilage for the parking and manoeuvring of two vehicles, laid out in accordance with the application drawing and maintained thereafter free of any impediment to its designated use.
14. Reason: In the interests of highway safety.
15. Following works to the roadside boundary wall to provide the visibility splay required by Condition 12 above and prior to the first occupation of the dwelling hereby permitted the wall shall be capped with the existing coping materials, which shall be reclaimed during works of alteration and rebuilt to a height of one metre relative to the nearside carriageway level.
15. Reason: To preserve the character and appearance of the conservation area.

11/02/2003

Item 1.8**Reg. No.** 9 2002 1272 F**Applicant:**

Mark Goodall
 Clover Fields
 Osleston Lane
 Dalbury Lees
 Derby
 DE6 5BN

Agent:

Mark Goodall
 Clover Fields
 Osleston Lane
 Dalbury Lees
 Derby
 DE6 5BN

Proposal: **The demolition of an existing building and the erection of a dwelling at Outbuilding To The North West Of Arleston Farm Arleston Lane Barrow On Trent Derby**

Ward: **Ticknall**

Valid Date: **12/12/2002**

Site Description

The property is part of an L shaped former agricultural building within a larger group of traditional buildings. Part of the building has already been converted to a dwelling. The remainder is in poor condition.

Proposal

The applicant seeks to rebuild a section of the building measuring some 22.5 m x 5 m. A new access onto the adjacent public right of way is also proposed along with a garage door on the south elevation. Otherwise the drawings are similar to a scheme of conversion previously permitted.

Applicant's Supporting Information

- a) In response to a previous application residents had complained about disturbance caused by vehicles manoeuvring in the courtyard. The current revised access proposal would remove the source of such disturbance.
- b) The access would be a substitute for one already permitted (9/0898/0363/F).
- c) A new access to the neighbouring Arleston Farm has recently been constructed, some 70 metres long with a 15 metre splay.
- d) The neighbouring barn has now been sold.
- e) The new access would be screened with native hedges.
- f) Permission has been given to convert the building but is now severely dilapidated and in a state of collapse. In order to improve the integrity and energy efficiency of the building it is proposed to re-use the existing materials to create a new structure.
- g) This particular building has a major impact on the existing converted buildings as it screens the extensive two-storey development from public view and from the track running from

- h) Arleston Lane to the Wragley Boat Stop. Therefore its continuing existence is required to maintain the original rural scene.

Site History

Permission to convert the L shaped range to a single dwelling was granted in 1988. In 1999 permission was granted to convert the building to two dwellings (9/0499/0015/F). One of the permitted dwellings is now occupied. Another barn, elsewhere in the overall group and belonging to a different owner, was rebuilt last year following collapse of the building during conversion (9/2001/0830/F). The application was permitted because the building was an important part of the group, forming a visual stop to domestic activity within the curtilage of other converted barns.

Responses to Consultations

The Parish Council and Highway Authority have no objection in principle.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: general Development Strategy Policy 5 and Housing Policy 6.

Local Plan: Environment Policy 1 and Housing Policy 7 and 8.

Draft Local Plan: Housing Policy 1.

Planning Considerations

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

- The principle.
- Impact on the character and appearance of the area.
- Residential amenity.
- Highway safety.

Planning Assessment

The policies of the development plan seek to resist new development in the countryside. Specifically, new residential units are only permissible when proposed in connection with a rural based activity. Therefore in principle the proposal is contrary to the development plan.

However the following issues also need to be given weight in this matter and they are relevant material considerations:

- There is an existing building that has been there for a considerable period of time.
- It would be rebuilt using materials reclaimed from the site.
- Its appearance would be very similar to the previously approved conversion scheme and would therefore not have a significantly greater impact.
- The proposal would retain a very important visual element of the whole farm group. Permission was granted for the conversion because the building contributed to the visual quality of the group.

- The building would provide a significant screen to domestic activity in the courtyard and gardens of the converted barns.

Of particular importance in this case is the contribution that the barn makes to the group as a whole. It closes off views into the courtyard of the converted complex, particularly from the public right of way that passes the site, and contributes to the setting of the complex as a whole. For these reasons, its original conversion was considered to be an important element of the conversion of this group of buildings as whole. Additionally the re-erection of the building would have no greater impact than the barn that has been granted permission to be converted.

Whilst this matter is finely balanced in terms of the relevant considerations, in this case, on balance, these other considerations outweigh the normal presumption against the erection of new dwellings in the countryside.

The impact on other residents would be less than as approved for the conversion because there would be fewer vehicles using the shared courtyard. Otherwise there would be no change.

Highway safety would not be compromised by the proposal.

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.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Unless as may otherwise be approved in writing by the Local Planning Authority the building shall be reconstructed using facing bricks and roof tiles reclaimed from the existing building.
2. Reason: In the interests of the appearance of the area.
3. Pointing of the existing/ proposed building(s) 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".
3. Reason: In the interests of the appearance of the building(s).
4. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.
4. Reason: In the interests of the appearance of the building(s) and the character of the area.
5. 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.
5. Reason: In the interests of the appearance of the building(s) and the character of the area.

6. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
6. Reason: In the interests of the appearance of the building(s), and the character of the area.
7. Large scale drawings to a minimum Scale of 1:10 of 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.
7. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
8. Hawthorn hedges shall be planted in the positions shown on the attached plan at a density of five plants per metre in the first planting season following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years from the completion of the development die, are removed or become seriously diseased or damaged 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.
8. Reason: In the interests of the appearance of the area.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.
9. Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.
10. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The septic tank shall be installed in accordance with the approved details before the development is first brought into use.
10. Reason: In the interests of pollution control.
11. Before development begins the access permitted under Planning Permission 9/0898/0363/F shall be permanently closed and the boundary of the site with the adjacent highway planted in accordance with the requirements of Condition 8 above.
11. Reason: In the interests of highway safety and to preserve the character of the countryside.

11/02/2003

Item 1.9**Reg. No.** 9 2002 1279 F**Applicant:**

David Green
 23, Hope Street
 Melbourne
 Derby
 DE73 1FX

Agent:

Mr M Chapman
 Summitt Building Services
 56 Fenton Road
 Mickleover
 Derby

Proposal: The change of use of the garage into living accomodation at
 23 Hope Street Melbourne Derby

Ward: Melbourne

Valid Date: 04/12/2002

Site Description

The property is a semi-detached house with an integral double tandem garage. Because the house is close to the road there is no parking to the front of the property.

Proposal

The proposal would use the rear part of the garage for extended living accommodation. Thus there would be only one parking space remaining.

Applicant's Supporting Information

- a) The conversion of the garage would enable maximum use to be made of the property.
- b) There would be no harm to neighbours because no extension is proposed.
- c) The alternative would be for the applicant to move but property prices in Melbourne are high.
- d) Recently the applicant has been making use of cycling and public transport. In view of the facilities and services in Melbourne the applicant is now considering such methods of transport on a permanent basis.

Responses to Consultations

The Parish Council has no objection.

Melbourne Civic Society considers that off street parking should be safeguarded and comments that the street scene has not been adversely affected.

The Highway Authority, whilst generally seeking to maintain an alternative parking space notes that none is available in this instance. However bearing in mind the limited traffic importance of

Hope Street and the government's attitude to private off street parking space as set out in PPG3 and PPG13, the authority considers that a refusal of permission could not be defended at appeal. Therefore there are no highway objections to the proposal.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: Transport Policy 6 and the associated supplementary planning guidance

Planning Considerations

The main issue central to the determination of this application is parking.

Planning Assessment

The supplementary planning guidance seeks to maintain two parking spaces. However in view of the availability of services and public transport in Melbourne, along with advice of the Highway Authority the proposal is considered to be acceptable in this particular case.

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.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. The garage space remaining after conversion and the area between the garage and the road shall be retained free of any obstruction to their use for the parking of a vehicle in perpetuity.
2. Reason: To ensure that a vehicle can be parked clear of the road.

11/02/2003

Item 1.10**Reg. No.** 9 2002 1301 F**Applicant:**

Mr Mrs D Woods
Waters Edge
Apsens Hollow
Thringstone
Leics
LE678PX

Agent:

G. Markwell
Graham Markwell Associates
1B Derby Road
Borrowash
Derbyshire
DE72 3JW

Proposal: The erection of a detached house (amended scheme) on Land Adjoining 37 Mount Pleasant Road Castle Gresley Swadlincote

Ward: Linton

Valid Date: 10/12/2002

Site Description

The site is an infill plot between existing dwellings within Castle Gresley, there is a two storey dwelling to one side of the site and a bungalow to the other side. The site is on a hilltop and the existing houses fronting Mount Pleasant Road are prominent on the ridgeline when viewed from the A444 below. There is a significant difference in levels from the front to the rear of the site.

Proposal

The application is for the construction of a two/ three storey, five bedroom dwelling. The dwelling has been designed to take account of the changing levels across the site such that it is two storey at the front and three storey at the rear, with a basement area located under the rear of the house, which provides bedroom and study accommodation. There is a balcony located on top of the basement area and a walkway is proposed around the side of the dwelling. The walkway is proposed at the same level as the front of the house and is therefore elevated above the level of the adjoining property due to the difference in levels. The proposed walkway leads to a flight of steps down to a long rear garden area.

The proposed dwelling is already partially constructed, the basement and ground floor have already been built.

Planning History

9/1196/624/F - Detached house. Approved in 1997.

9/2000/563/F - Detached house and formation of a wildlife pond. Approved in 2001.

Responses to Consultations

The Parish Council has not commented.

The County Highway Authority has no objection subject to conditions.

Responses to Publicity

Two letters of representation have been received from occupiers of the adjoining dwellings making the following points:-

- Concern about overshadowing and overlooking of the side kitchen window of No 43 resulting in a detrimental impact on the occupiers of the dwelling. The distance between the kitchen window and the side of the dwelling is only 6.4m, this distance is just under 30% deficient from the minimum standard as defined in the SPG.
- Concern that the proposed house will have an overbearing impact on the patio at the side of No 43 resulting in a loss of amenity for the occupiers.
- Loss of privacy as a result of overlooking of No 43's kitchen and garden area, from the proposed hall window and the elevated side path.
- No details of parking and turning area for the parking of three vehicles have been submitted neither has the proposed vehicular access point.
- Concern that the previously approved scheme for the erection of a bungalow is not being implemented and that the proposed scheme would result in a detrimental impact on the amenity of the occupiers of No37 as a result of loss of natural light to windows on the south elevation, shading of the rear elevation and deck area, loss of light to the kitchen window located on the rear elevation and breaching of the 45 degree standard with respect to the kitchen window.
- Concern over the height of the proposed dwelling, as it will dwarf the adjoining properties.
- Concern over drainage for the proposed dwelling.

Structure/Local Plan Policies

The relevant policies are:

Draft Local Plan: H1

Housing Design and Layout (Supplementary Planning Guidance (SPG))

Planning Considerations

The main issue central to the determination of this application is the impact of the proposed dwelling on the occupiers of the neighbouring dwellings.

Planning Assessment

The site is an infill plot between two existing dwellings in a ribbon development on the edge of Castle Gresley. The site is not included in the urban area but is a brownfield, infill plot which already benefits from planning consent for residential development.

The proposed dwelling is an amalgamation of two previously approved schemes for the site. In 1997 planning permission was granted for a two storey dwelling at road level and in 2000 planning permission was granted for a dwelling making use of the levels on the site such that it was single storey at the front and two storey at the rear. The current proposal is for a two storey dwelling at road level with a basement underneath at the rear. Work began on the site in 2000,

although it is not clear which consent it was intended to implement. The time period for a commencement of construction of the dwelling approved in 1997 has now expired.

There is a two storey dwelling to one side of the site, No 37, and a bungalow, No 43, to the other side of the site. No 37 has one first floor hall window in the side elevation and a kitchen window on the rear elevation adjoining the site. The hall window serves a non-habitable room and is high level and would look out at the upper wall and sloping roof of the proposed dwelling. There is one obscure glazed window on this side of the proposed dwelling. There are therefore no overlooking or overbearing issues with respect to the existing hall window. The proposed dwelling complies with the 45 degree standard with respect to overbearance on the kitchen window at the rear of No 37.

No 43 has a kitchen window on the side elevation facing the site, there are two windows serving the kitchen. The standards outlined in the SPG refer to a distance of 9 metres being sought between a secondary and side aspect, and the distance between the kitchen window and the side elevation of the dwelling is only 6.4 metres. However the SPG states that where habitable room windows may be contained in a side elevation and are close to the side boundary, the application of general spatial guidelines could lead to unreasonable constraints to development on adjacent land and these matters should be assessed on their own merits. It is considered that in this case requiring 9 metres between the aspects would be unreasonable and overly restrict development on the site especially given that the kitchen is also served by a window on the front. The application proposes two first floor windows on the side elevation of the dwelling facing No 43 and a condition can ensure that these are obscure glazed to avoid overlooking.

The scheme approved in 2000 incorporated the same elevated walkway and rear balcony as currently proposed although the previous scheme incorporated a screen fence to either side of the balcony. It is considered that the same screen fencing can now be required by condition to protect the amenities of adjoining occupiers. The occupiers of No 43 have raised concerns about the shading of the patio area to the side of the dwelling, however the standards do not seek to protect patio areas from overbearance. There is sufficient additional amenity space around No 43, which will not be shaded by the proposed development.

The provision of parking for three vehicles within the curtilage of the dwelling can be required by condition.

The site is on the ridge of a hill and is prominent when viewed from the A444 to the rear. The proposed dwelling will be slightly higher than No37 and other two storey dwellings in the area but it is considered that it will not have an adverse impact on the streetscene of Mount Pleasant Road or be overly prominent when viewed from the A444 as it would appear in the context of other dwellings with similar roof heights.

The proposed dwelling is considered acceptable in terms of its design and external appearance and as stated above, by virtue of its siting, is not considered to have such a significant adverse impact on the occupiers of the adjoining dwellings as to justify refusal of the scheme.

Recommendation

GRANT permission subject to the following conditions:

1. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate three cars within the curtilage of the dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), three parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site, these shall be hard surfaced with a solid bound material prior to the first use of the development.
1. Reason: To ensure that adequate parking/ garaging is available.
2. Within one month of the date of this permission plans indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. 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 by the Local Planning Authority.
2. Reason: In the interests of the appearance of the area.
3. The windows in the side (east and west) elevation walls of the building shall be permanently glazed in obscure glass.
3. Reason: To avoid overlooking of adjoining properties in the interest of protecting privacy.
4. Prior to the first occupation of the dwelling hereby permitted, a scheme for fencing to be erected around the sides and the balcony and walkway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be erected in full prior to the first occupation of the dwelling and retained thereafter in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
4. Reason: To protect the amenities of adjoining properties and the locality generally.
5. Prior to the construction of the roof of the dwelling hereby permitted, precise details, specifications and, where necessary, samples of the facing material to be used in the covering of the roof shall be submitted to and approved in writing by the Local Planning Authority.
5. Reason: To safeguard the appearance of the existing building and the locality generally.

Informatives:

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

Further to the above Informative, the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner. This grant of planning permission does not give a warranty of ground support or stability, neither does it necessarily imply that the requirements of any other controlling authority would be satisfied.

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

11/02/2003

Item 1.11**Reg. No.** 9 2002 1319 F**Applicant:**

J Hobson
 57, Derby Road
 Aston-on-Trent
 Derby
 DE722AE

Agent:

J T Associates
 17 Pineside Avenue
 Cannock Wood
 Rugeley
 WS15 4RG

Proposal: The erection of extensions at the front, side and rear including a balcony together with the conversion of the loft (including the provision of dormer windows) and the erection of a garage in substitution for that approved under permission 9/2001/1041 at 57 Derby Road Aston-on-Trent Derby

Ward: Aston**Valid Date:** 16/12/2002**Site Description**

The property is an extended dormer bungalow in area of mixed housing types within the village confines.

Proposal

The proposal differs from that permitted under code no 9/2001/1041/F insofar as one of the dormer windows to the front is larger and there is a balcony at first floor level to the rear.

Planning History

9/2001/1041/F was permitted in December 2001. The development has been completed with the alterations described above incorporated.

Responses to Consultations

The Parish Council is extremely concerned that the balcony would overlook the village primary school and strongly recommends refusal in the light of present attitudes to child protection.

Structure/Local Plan Policies

The relevant policies are:
 Local Plan: Housing Policy 13.

Planning Considerations

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

- Impact on the general character of the area.
- Residential amenity.

Planning Assessment

The impact on the general character of the area is only marginally different to the scheme already approved and no more harmful.

The main potential impact on neighbours is from the balcony. However this sits between two pitched roofs, which preclude views into the neighbouring properties. The potential to overlook the school is no more than as previously approved. No response has been received from the school itself.

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. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate three cars within the curtilage of the dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), three parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site.
1. Reason: To ensure that adequate parking/garaging provision is available.

11/02/2003

Item 2.1**Reg. No.** 9 2002 1292 U**Applicant:**

Mr Rook
 Blue Post Caravan, Burton Road
 Egginton
 Derby
 DE656HA

Agent:

Emery Planning Partnership
 4 South Park Court
 Hobson Street
 Macclesfield

Proposal: **The formation of a gypsy caravan site with three caravans (two families) at Blue Post Caravan Burton Road Egginton Derby**

Ward: **Hilton**

Valid Date: **10/12/2002**

Site Description

The site comprises an established site bounded on all sides by tall walls. On its west boundary is the Trent and Mersey Canal, a conservation area, to the east and north is scrubby farmland and to the south beyond the access track over High Bridge is High Bridge House which is a Grade II Listed Building. Within the site are areas of hardstanding and a range of outbuildings about the canal boundary on a narrow tongue of land that extends north from the main part of the site.

Proposal

The proposal is for the use of the land as a permanent gypsy site for up to two families with a maximum of three caravans. No changes are proposed to the walls that surround the site. The forms state that the site was last used as a caravan site in 1998/1999. Access would be via High Bridge off the A38

Applicants' supporting information

The appellants have submitted this application without prejudice to the outcome of the appeal into the variation of the conditions that is due to be heard in April this year. This application is submitted on the basis of the fact that there is a generalised need for a gypsy caravan site in the locality. An extract from the appeal statement, prepared on behalf of the applicants, has been submitted with a request that it should be repeated in full for the consideration of members when they determine this application. The following is that extract in full – Members should note that this is the applicant's case, officer consideration of that case will follow under '**Planning Considerations**.'

"Planning policies, both national and local, have changed since the previous appeal decision in 1990 and now recognise that gypsy sites can be appropriately located in the countryside.

The previous appeal was determined at a time when South Derbyshire was designated under the terms of the Caravan Sites Act 1968 and, the approved Structure Plan Countryside and Conservation Policies indicated that new housing and residential caravan sites within the countryside well outside any established settlement would normally only be permitted where they are required as an essential part of the rural economy. The appeal decision pre-dates Circular 1/94 and, repeal of the duty to provide public gypsy sites and the Secretary of State's powers of designation.

Circular 1/94 makes clear that the planning system should recognise the need for accommodation consistent with gypsies' nomadic lifestyle. The basis for making adequate provision is to be a quantitative assessment of need. Planning Policy Guidance Note's 12 and 3 reiterate the need for local planning authorities to make a quantitative assessment of need. Circular 1/94 makes clear that Structure Plans should set out strategic guidance for site provision and, that Local Plans should set out more detailed policies. Wherever possible, Local Plans should identify locations suitable for use by gypsies. Paragraph 28 of PPG3 goes further and advises that local planning authorities should allocate sufficient land to meet identified housing needs.

General Development Strategy Policy 4 of the approved Structure Plan provides that, away from settlements, development will be permitted if it can be shown to be appropriate in such a location and can be designed and positioned to minimise adverse impact on the environment

Housing Policy 8: Gypsies and Travellers post-dates Circular 1/94 and sets out a strategic framework for the provision of gypsy accommodation. Paragraph 3.26 of the policy makes it clear that gypsy sites will not be permitted in areas of Green Belt and areas of Special Landscape. This implies that gypsy sites will be appropriately located within areas of open countryside outside of the Green Belt and areas of Special Landscape. This reflects the advice in paragraphs 14 and 22 of Circular 1/94 which makes clear that gypsy sites can be appropriately located outside of existing settlements, but within a reasonable distance of local services and facilities, and that many sites may be found in rural or semi-rural settings.

Gypsy sites clearly fall within the category of development "appropriate" to locations "away from settlements" which is included in paragraph 2.12 of General Development Strategy Policy 4. The location of a gypsy site on the appeal site within an area of countryside, which is not designated as lying within an area of Green Belt or Special Landscape, will therefore be consistent with the adopted Structure Plan policy concerning the provision of caravan sites for gypsies and with other relevant Structure Plan and national policies, subject to minimising any adverse impacts on the surrounding area.

This interpretation of the relationship between countryside and gypsy site policies has been accepted in numerous appeals including an appeal involving the provision of a gypsy caravan site in an area of countryside on the edge of Blackpool. A copy of the appeal decision is attached at Appendix EPP1 in which the Inspector accepted that the use falls within the meaning of "other uses appropriate to a rural area".

Structure Plan Housing Policy H8 does not make any assessment of need for gypsy sites within the County which implies that this is the responsibility of district councils. The South Derbyshire Local Plan makes no assessment of the accommodation needs of gypsies in the district, and contains only a criteria-based policy for the provision of gypsy sites. Moreover, the criteria set out in Housing Policy 15 of the adopted Local Plan do not actually add to those set out under Structure Plan Housing Policy 8. If anything they are less specific because they do not direct

gypsy sites away from specially protected areas of countryside, as advised in Structure Plan Housing Policy 8 and paragraph 13 of Circular 1/94.

I attach an appeal decision at Appendix EEP2 in which the Secretary of State accepted his Inspector's finding that Circular 1/94 requires a quantitative assessment to be made of the amount of accommodation required and her criticisms that the approved and emerging development plan policies did not derive from such an assessment, or accord with the requirements of the latest version of PPG3.

A letter dated 27 May 1998 from the DETR to all Chief Planning Officers expressed concern that too few Authorities were making the provision advised in Circular 1/94. It went on to say that "compliance with the guidance in Circular 1/94 is essential to fulfilling the Government's objective that Gypsies should seek to provide their own accommodation, applying for planning permission like everyone else" and the letter concluded with the following sentence: "Authorities may also wish to consider whether the absence of such provision may prejudice successful enforcement action against unauthorised encampments, or give rise to grounds for appeal against refusal of an application for a new site". This clearly implies that where a development plan fails to make adequate provision for gypsies, this will form a material consideration which, even in the Green Belt, may contribute to very special circumstances justifying the grant of planning permission.

The appeal site is capable of complying with all of the criteria of Local Plan Housing Policy 15 for the location of gypsy caravan sites and the approved use therefore complies fully with development plan policies, without reliance on any personal circumstances.

Housing Policy 15 of the Local Plan carries a presumption in favour of the approval of gypsy sites subject to compliance with 6 criteria.

With respect to the first of these criteria that new gypsy sites should be "in an area frequented by gypsies", the Inspector in the 1989 appeal heard evidence that Mrs Rook had lived on the privately owned gypsy site at Branston Road, Burton-on-Trent for 10 years prior to moving onto the appeal site and that, when she and her husband were travelling they stayed on unauthorised sites mainly in the Stoke-on-Trent area, but had often stopped in Burton-on-Trent. The Branston Road site is only 3 miles from the appeal site and the appeal site lies close to the county boundary with Staffordshire. The Council accepted that county boundaries are of little significance to gypsies and, bearing in mind the length of time Mrs Rook had resided in or resorted to Burton-on-Trent, the Inspector considered that she is a gypsy with strong links with the locality albeit on the other side of the county boundary.

The Rook family have resided on the appeal site until about 3 or 4 years ago. Mr Rook's father has suffered severe health problems, but could not join his son on the appeal site due to the restriction on caravan numbers. As a result, Mr Rook and his family have moved to the Branston Road site in Burton-on-Trent in order to provide the necessary care for Mr Rook's father, but intend to return to the appeal site as soon as circumstances allow: it was for this reason that I was initially instructed to obtain planning permission for an increase in the number of caravans from 3 to 4.

Clearly, the appeal site is in an area frequented by gypsies and, more particularly, it is within a locality habitually frequented by the Rook family for over 20 years.

With respect to criterion (ii), that gypsy sites should be "satisfactorily located in relation to other development", there is only one nearby dwelling: High Bridge House. The previous appeal Inspector did not even consider whether use of the site as a residential caravan site would have a detrimental effect on the amenities enjoyed by residents of that dwelling which infers that such concerns were not raised as an issue by the District Council.

The Inspector in the 1990 appeal did consider that the caravan site had a detrimental effect upon the setting of High Bridge House and High Bridge, which are both listed buildings, but considered that these harmful visual effects could be overcome by the imposition of conditions. In particular, she considered that walls, built of red brick to match the adjacent listed buildings, constructed beside the canal towpath and lane would not necessarily appear out of place to people using the towpath or canal, since high walls are not uncommonly found in relation to substantial houses in the open countryside. The Council agreed that such a wall would be acceptable and, also suggested the painting of the caravans in a more sympathetic colour as a means of reducing their impact still further. The Inspector imposed conditions requiring provision of screen walls and repainting of the caravans, and also imposed a condition requiring some narrowing of the access.

The third criterion requires that proposed gypsy sites should be "acceptable in environmental terms". The appeal site lies within the 100 year flood plain of the River Trent, as shown on the Local Plan Proposals Map. The Inspector in the 1989 appeal heard direct evidence from a former employee of the Severn Trent Water Authority responsible for monitoring the levels of the

Rivers Trent and Dove, and pipe work crossing the wash lands in the vicinity of the appeal site. He had never seen the appeal site flooded, but had seen floods around it : possibly as close as 30 metres. The Inspector concluded on the evidence, that there is a modest risk of flooding, but that the water would be unlikely to be deep or flowing. A condition was imposed on the planning permission, in response to a request from the National Rivers Authority, requiring that the residential area of the site be raised above the level of the flood plain if found to be necessary after levels have been taken. She considered that such works would have a negligible impact on the functioning of the flood plain.

The Planning Officer's report attached at Appendix EPP3 also considers the flooding issue. The Planning Officer correctly observed that there are walls separating the appeal site from the flood plain which will remain whatever the outcome of this appeal. The site no longer functions as part of the flood plain. There is no evidence that the site floods or that flooding would prevent the normal use of the site as a residential caravan site. The Planning Officer found the Environment Agency objection "difficult to understand" and did not consider that, in the circumstances, flood risk could form a defensible reason for refusal.

Criterion (iv) requires that gypsy sites should be "reasonably accessible to community services and facilities". Circular 1/94 carries a similar requirement and, suggests that the services and facilities which should be reasonably accessible will include local shops, hospitals and schools, but neither the circular or criterion (iv) give any indication of what is to be regarded as reasonable.

The Inspector in the previous appeal noted that the appellant's 2 older children (who were then 11 and 6 years of age) went to the local Roman Catholic School, about 4 miles away in Burton-on-Trent and, that the children's schooling had not been disrupted when the family had moved

from Branston Road onto the appeal site. The Inspector granted planning permission for retention of the appeal site as a caravan site specifically to allow the children to continue with their schooling in Burton-on-Trent. Clearly, she must have considered the appeal site to be within a reasonable distance of community services and facilities in Burton-on-Trent.

Local shops are available closer to hand than Burton-on-Trent, with a post office at Egginton and a shop at Stretton. In my opinion, the appeal site enjoys reasonable accessibility to a full range of community services and facilities particularly having regard to the fact that it is the norm for gypsy families to have vehicles.

Criterion (v) requires that gypsy caravan sites should be "capable of sympathetic assimilation into its surroundings (including landscaping and screening)". The Planning Officer noted in his report that the previous appeal Inspector had considered the site prominent from some areas, in particular from High Bridge itself. However, she considered that, because of intervening vegetation, during the summer there would be no view of the caravans from the A38. The Planning Officer considered that this was and is still the case. As set out in para 5.15 above, the Inspector considered that the adverse visual impacts of the caravan site from the canal and High Bridge Lane, and in winter from the A38, could be overcome by the provision of screen walls, by narrowing of the access and by painting of the caravans.

The Planning Officer drew attention to the implications of a refusal of planning permission. In his opinion, the site would remain in its existing state indefinitely and, abuse and unauthorised use would be likely to become a problem. In contrast, if this appeal is upheld, conditions can be imposed to ensure that the screening measures required by the previous appeal Inspector are maintained and enhanced.

The final criterion of Housing Policy 15 requires that adequate provision should be made for access to the site. The previous appeal Inspector considered that retention of the caravan site would not, in terms of traffic generation, have an undue impact on the safety and free flow of traffic using the A38.

Neither the County Highway Authority nor the Highways Agency object to the current appeal proposals.

The appeal site is capable of complying with all of the criteria contained within Housing Policy 15 and, therefore, if proposed as a new gypsy caravan site a presumption would exist in favour of the granting of planning permission. This would be the case whether based upon the reasoning used by the previous appeal Inspector, or upon the reasoning used by the Council's own Planning Officer. Had the previous appeal been conducted on the basis of current national and local policies, no justification would have existed for the imposition of a personal condition.

There is a need for additional gypsy accommodation in South Derbyshire which the appeal site would help to satisfy.

Circular 1/94 advises that proposals for gypsy sites should continue to be determined solely in relation to land-use factors and that, whilst gypsy sites might be acceptable in some rural locations, the granting of permission must be consistent with agricultural, archaeological, countryside, environmental and Green Belt policies. The case of *Rexworthy and Others v Secretary of State*

for the Environment and Leominster D.C. (1998) confirmed, however, that the need for Gypsy sites and any personal circumstances could also be material considerations in gypsy cases. Thus, whilst the lack of a demonstrated need will not be a material consideration (para 21 of Circular 1/94), a demonstration of need will be a significant material consideration for deciding applications and appeals.

Circular 1/94 recognises that there is a need to provide several different types of accommodation including transit sites for gypsies travelling through an area and, sites for settled occupation.

There is a national shortage of gypsy sites. Nationally, about 2500 gypsy families (about 20 percent of the total) have to use unauthorised sites. In the 5 bi-annual counts of gypsy caravans undertaken January 2000-January 2002, approximately 22.6 percent of gypsy caravans have, on average, been accommodated on unauthorised sites in England as a whole. Regionally, 26.1 percent of gypsy caravans have, on average, been accommodated on unauthorised sites in the East Midlands.

Derbyshire, by virtue of its topography, does not play host to huge numbers of gypsy families when compared with neighbouring Staffordshire, but 28.5 percent of gypsy caravans in the County are, on average, located on unauthorised sites. Gypsy site provision in Derbyshire is concentrated within 3 of the 8 districts: Bolsover, North-East Derbyshire and South Derbyshire. These districts also suffer the greatest problems of unauthorised camping. Over the 5 bi-annual counts, January 2000-January 2002, there have been an average of 8 caravans on unauthorised sites in South Derbyshire which demonstrates a modest but persistent need for additional gypsy accommodation.

The bi-annual count is only a snapshot on 2 days per year and, is generally accepted to underestimate the true level of need. The Office of the Deputy Prime Minister has recently published research entitled "The Provision and Condition of Local Authority Gypsy/Traveller Sites in England" which estimates that between 1000 and 2000 additional pitches will be required on residential sites by 2007, together with an additional 2000-2500 pitches on transit sites. If these are distributed in proportion to the distribution of existing gypsy families, as shown by the January 2002 count of gypsy families, more than 8 new pitches will be required in South Derbyshire: which tends to support the evidence of the bi-annual count.

The application site would provide 1 or 2 of the required pitches and would, therefore, help to meet an identified need for additional gypsy accommodation in South Derbyshire."

Planning History

Planning permission for the gypsy site was first granted on appeal in 1990. This was subject to conditions limiting occupation to a particular family and for a period limited to the occupation of that site by that family.

An application to increase the number of pitches to 4 as well as to amend the conditions referred to in this application was refused at the direction of the Highways Agency early last year.

Later last year a further application to amend the conditions without increasing the number of pitches was refused permission and is now the subject of an appeal. This will be determined by the means of an Informal Hearing to commence on 8 April 2003.

Responses to Consultations

Egginton Parish Council has strongly objected to the development. It considers that the site has been vacant for a number of years and that under the terms of condition 1 the permission no longer exists. There is concern that the septic tank may not have sufficient capacity and the site is only capable of accommodating 3 caravans.

Councillor Mrs. Walton objects to the application for the following reasons: -

- a) dangerous access onto a very busy road
- b) danger of flooding. Any further residents will surely exacerbate the problems already experienced in the area.
- c) the disposal of foul and surface water cannot be adequately addressed

The Highways Agency has directed refusal of the application on the grounds that it is unacceptable to increase vehicle movements to and from the trunk road. The Highways Agency has noted the submissions of the applicants and has stated that the direction is made on the basis that the Local Planning Authority is satisfied that the site has no current use. Thus, the application is being treated as if it was a new application.

The County Highways Authority & Severn Trent Water have no objection.

British Waterways has objected for the following reasons:

- a) The site was formerly used as a caravan site and long term moorers advise that during the period of occupancy there were increased levels of theft, vandalism and damage including misuse of guns, probably air weapons.
- b) Some moorers have indicated their intent to leave the site if planning consent is given. This would potentially effect an annual income to BW of £8.5k.
- c) Access - The lifestyle of the potential residents would indicate use of large vehicles and trailers. This would be particularly relevant with regard to awkward access from the very busy A38 notorious for dense and fast moving traffic. There is also the risk of emergency and maintenance access to our sites being obstructed on occasions.
- d) There is apparently an ongoing and long running civil legal dispute between the owner of the site and the owner of the neighbouring farm, a Mr Moore. Details of the issue are not known at this stage. However it is unlikely that the matter would be resolved until after the planning decision. This may have an effect on future relationships and operation of the area.
- e) Other issues – Noise, waste disposal, litter, sanitation and possible intimidation. There is also no information on how surface water discharge and sanitation will be dealt with. BW does not want to see either drained to the canal if this proposal proceeds.

The Environment Agency wish to OBJECT to the application as submitted as floodplain records indicate that the site in question lies within the historical floodplain of the River Trent and Egginton Brook and is also influenced by flooding from the River Dove.

However, the Agency considers that the site does not lie within the functional floodplain of the above watercourses. In addition the Agency does not have a record of the flood level that would

affect the site during a 1% flood event and a grid of levels forming part of a flood risk assessment would allow the Agency to comment on the issue of flood risk. Whilst the Agency does not hold information of flood levels for the site, the use of the precautionary principle advocated in PPG 25 Development and Flood Risk is recommended.

On the basis that planning consent 9/988/663 has lapsed the Agency would not support the provision of a new caravan site in an area of flood risk given the health and safety implications of an increased number of persons living in the floodplain.

Witness statements suggest that the site has not flooded within a 30-year period from 1959-1989 from personal experience. However, the Agency's records suggest that the largest flood events were outside of this period, taking place in 1947 and 2000. The Agency's records view historical floodplain information as well as indicative floodplain information and both datasets include the site within the floodplain of the Dove/ Trent confluence. The Agency has to consider the impact of flooding for a 1 in 100-year flood event.

It is understood that the Council have a photographic record of the flood event over Christmas 2002. Although the data will need to be analysed, initial indications suggest that the recent event was of the magnitude of a 1 in 5-10 year flood on the River Trent and a 1 in 10-15 year event on the River Dove.

With regard to the wall surrounding the site, there are no details to suggest that this wall has been engineered or designed as a flood defence and may not afford protection from flooding in a major flood event.

The Environmental Health Manager has no objection.

The Historic Buildings and Conservation Officer has significant concerns about the impact the proposal has had and would continue to have on the character and setting of both the Conservation Area and the Historic Buildings. The structures already have an adverse impact and there is encouragement to ensure that these be removed if the permission were refused.

Responses to Publicity

Two letters from one family have been received objecting to the proposal on the following grounds:

- a) This site has been unoccupied for nearly five years therefore the planning permission has long since, lapsed.
- b) Permission for the site was expressly intended as a temporary measure for one particular gypsy family to facilitate their children's schooling.
- c) The lack of compliance with conditions laid down at Public Inquiry, means the site remains semi derelict.
- d) The application seems to seek the formation of a gypsy site. It is not clear if this applicant is the original one or another gypsy family.
- e) This application seeks permission for two families, rather than the one originally approved originally, this would intensify the use of the land on a permanent basis and circumvent the conditions imposed at the public inquiry. It has been seen in other areas of South Derbyshire, that once a site has permission, it just grows and the Council seems powerless to stop it happening.

- f) The area is subject to flooding, there is photographic evidence of this happening as recently as 30 December last year.
- g) The septic tank may not be large enough to cope with the effluent from two families.
- h) The access is very sub standard, every one, including the family when they were resident on the site has difficulty in getting on to the A38. When the site was occupied, there were instances of lorries reversing back over the bridge and on to the A38 slip off road. Extra traffic would add to that problem. The Highways Agency have previously refused applications for permanent dwelling because of highway safety concerns.
- i) The use of conditions to screen the development clearly do not work, the site remains an eyesore although the conditions were imposed.
- j) The site has been abandoned, the Inspector found that a permanent use of the site would be visually harmful to the character of the area and imposed a temporary permission. The permanent use of the land would have the undesirable impact envisaged by the Inspector and should be refused for that reason.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 1 & 4, Housing Policy 8

Local Plan: Environment Policy 1, Housing Policy 15

Other material policies/advice: Circular 1/94

Planning Considerations

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

- Compliance with the Development Plan
- Other material considerations

Planning Assessment

The Appeal Decision and subsequent applications.

Much has been made of the Inspector's decision letter in respect of the site. Whilst permission was granted on a temporary basis the inspector found that the issues were finely balanced but the importance of the children's schooling tipped the balance in the appellant's favour. Thus, she intended to grant a personal planning permission for a limited period for the use of the land for the purpose of a caravan site subject to conditions including the ones referred to above. The Inspector considered various matters relating to the use of the land as a gypsy site. She stated that the caravans, associated structures and parking have an undesirable visual impact on the setting of the Listed Buildings albeit not from all directions. However, she felt that conditions could mitigate this impact. It would appear from a reading of the whole decision that, but for the schooling issue, permission would have been refused. The granting of a temporary, albeit indefinite, permission reflects this visual impact.

In attempting to ascertain information regarding occupation of the site, reference has been made to publicly available information. The electoral roll shows that the persons who obtained the temporary permission were registered to vote from the site in 1998/1999 but were not registered at the site in 1999/2000. (Another source may be available subject to checking with the Legal Services Manager. The outcome will be reported at the meeting although there may be nothing

to report if the advice is the information is not publicly available). The evidence of the Electoral Roll may not be entirely convincing as the gypsy community has a nomadic lifestyle. However, the fact that the residents were registered in all the years prior suggests that this was not a factor in previous years.

Since the submission of the original application in 2001, the site has been the subject of intermittent visits by officers. These have shown that the site has remained empty in the intervening period. Whilst not evidence in itself of the intention to abandon the site, it does add to the case. The application form also states that the site was last occupied in 1998/99.

The Current Application

The applicants seek to demonstrate that the use of the land as a permanent gypsy site would comply with the criteria set out in Housing Policy 15 of the Local Plan. Much reliance is placed on the Inspector's decision and the provisions of Circular 1/94. The Council's position is that the temporary planning permission has expired and as such the current application needs to be judged as if the site were in a virgin state albeit having regard to the provisions of Government advice and the current Local Plan policy.

Since the 1990 permission, the Trent and Mersey Canal has been designated as a Conservation Area along its whole length. In some areas, the boundaries of the conservation area extend around other areas adjacent to the canal. This includes parts of Willington and the area around High Bridge. They are included because of their historic association with the canal. Both the Canal Bridge and High Bridge House are listed structures in their own right. Referring back to the Inspector's decision – it was found that the caravans and associated structures did have an undesirable visual impact on the buildings albeit not from every direction. The Inspector also accepted that the site was very prominent from High Bridge and for users of the canal and the towpath. The designation of the Canal and the surroundings as a conservation area represents a material change to the planning policy for the location. This factor must weigh heavily in the balance when determining the suitability of the site in the light of Development Plan policies.

In terms of the criteria in Housing Policy 15, there is no doubt that the site is in an area frequented by gypsies and it is reasonably accessible to community services. The remaining criteria are therefore the subject of consideration. The site has to need all the criteria to be judged acceptable under the terms of the policy.

In terms of the Conservation Area, the site is not capable of being adequately screened. It lies at a lower level and buildings and other structures are erected right on the boundary. Planting would have no space in which to grow and the erection of fences would appear incongruous. The erection of a wall along the canal side boundary would have to be of such a size that the it also would appear as a massive and intrusive feature that would neither enhance nor preserve the character or appearance of the conservation area. Thus, the view is that the site would not be capable of assimilation into its surroundings and would not be acceptable in environmental terms because of its adverse impact on the surroundings, conservation area and the listed buildings.

The applicant's contention is that the Inspector found the site suitable for use as a gypsy site. Her conclusion was that the issues were finely balanced – the educational needs of the children tipped the balance in favour of the then appellants. A temporary permission was granted and that has now expired for the reasons that are explained above.

The provisions of Circular 1/94 have been met by the Authority in that Housing Policy 15 of the adopted Local Plan set criteria that allow the Authority to assess the suitability of gypsy sites. The emerging replacement Local Plan has an assessment of the needs of the District for sites and concludes that there is already adequate provision without the need to identify more sites within the Local Plan. The replacement Housing Policy 11 sets four criteria against which individual sites will be judged.

The Highways Agency comments may have a direct impact on the resolution. Comments will be reported at the meeting.

Enforcement

The decision of the Inspector contained a condition that required the removal of materials brought onto the site for its use as a gypsy site. The wording of the condition is ambiguous and it would be difficult to enforce to bring about the removal of walls and other structures that are present on the site. Accordingly an enforcement notice would need to be drafted to specifically refer to the structures, buildings and surfacing within the site and set out steps for their removal, a time frame and a specification for the restoration of ground levels within the site.

Members should be aware that the Notice would not take effect until all appeal processes had been exhausted and the possibility of judicial review and appeal to higher courts had been undertaken, if the applicants so desired. As well as being expensive for the applicant there could be significant legal and other costs for the Authority.

Recommendation

1) REFUSE permission for the following reasons:

1. The site lies within the Trent and Mersey Canal Conservation Area wherein there is a duty on the Authority to consider whether development would preserve or enhance the character or appearance of the Conservation Area. Adjacent to the site are two listed structures, Highbridge House and High Bridge, both assessed as Grade II in importance. Environment Policies 12 & 13 of the adopted South Derbyshire Local Plan seek to ensure that development is appropriate to the character or appearance of the listed buildings and the Conservation Area. Housing Policy 15 of the adopted South Derbyshire Local Plan sets criteria against which proposals for gypsy sites will be assessed. Amongst these are requirements for a site to be assimilated into its surroundings, be satisfactory in environmental terms and satisfactorily located in relation to other development. The site, although previously benefiting from a temporary planning permission, now lapsed, is an unwarranted intrusion into the Trent and Mersey Canal Conservation Area and is detrimental to its character and appearance. It also has a significantly detrimental impact on the character and setting of the listed buildings. Whilst acknowledging its previous temporary use, the site is unsuited for permanent use as a gypsy caravan site for the reasons stated above and is contrary to the provisions of the stated adopted Development Plan policies.
2. The additional traffic generated by the development would affect the free flow and safety of traffic on the A38 Trunk Road.

Informative:

Reason for refusal No 2 is imposed at the direction of the Highway Agency.

2) That the Legal and Democratic Services Manager and the Planning Services Manager be **AUTHORISED**, subject to reports on the financial implications of the action, to take all necessary enforcement action to secure the restoration of the site (as described above).

APPEALS DISMISSED

1.

Appeal by Mr Kidd

The erection of a detached dwelling on land adjacent to Rose Cottage and Meadowside Barn (East of A514) at Derby Road Stanton-by-bridge Derby (9/2001/1092)

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

1. *The application is considered to be unacceptable as Stanton by Bridge is not identified as a sustainable location for further residential development as it does not provide sufficient facilities to enable residents to live within the village without being reliant on the private car to travel significant distances for goods and services, or to take up employment. The proposal would therefore lead to additional residential development in an unsustainable location contrary to the advice contained in PPG3: Housing, the Council's Settlement Hierarchy and General Development Strategy Policy 1: Sustainable Development of the Derby and Derbyshire Joint Structure Plan.*

2. *The site lies outside the confines of the settlement of Stanton by Bridge, as defined in the South Derbyshire Local Plan, in an area where new residential development is strictly controlled. No special justification has been put forward in this case to justify the erection of a further dwelling in this location. Furthermore the development would not constitute the infilling of a small gap within a small group of dwellings. The proposal would thus be an unwarranted intrusion in this part of the countryside, which lies adjacent to a designated conservation area to the detriment of the rural character of the locality and the setting of the conservation area. As such the proposal is contrary to the following development plan policies:*

Derby and Derbyshire Joint Structure Plan General Development Strategy Policy 4, Housing Policy 6 and Environment Policy 9; and

South Derbyshire Local Plan Environment Policies 1 & 12 and Housing Policy 8.

The inspector considered the main issues to be:

- a) The impact of the proposed dwelling on the form and setting of Stanton by Bridge and the surrounding rural area;
- b) The effect of the proposed dwelling on the character and appearance of the Stanton by Bridge Conservation Area;
- c) Whether a dwelling in this location would be sustainable having regard to national policy guidance.

The inspector noted that the site was outside the confines of the village as defined in the adopted local plan. He also noted that the proposal failed to satisfy the tests of the emerging local plan because the site was not brownfield. In his opinion the proposal failed to satisfy current development plan policies and it was therefore his duty to determine in accordance with plan unless other material considerations indicated otherwise.

Considering the form and setting of the village the inspector considered the site to be infill and the development would not significantly detract from the village in this regard.

Although the site was just outside the conservation area the inspector had regard to the need, as expressed in PPG15, to assess the impact on views into or out of the conservation area. He felt that a suitably designed low-roofed dwelling set back on the site in line with Rose Cottage with appropriate boundary treatment along the frontage would prescribe the character and appearance of this part of the conservation area and would not detract from views into or out of the area.

On the issue of sustainability the inspector noted that the village was well served by a good bus service (20-minute intervals on weekdays and hourly on Sundays) and was only a few minutes away from Melbourne. He commented that journeys to Swadlincote and Derby were of a reasonable distance. On the basis of these factors, in particular the bus service, the inspector felt that the spirit of sustainable development policy was met.

Comment: The decision emphasises the need to take account of all other material considerations and to assess whether these are of sufficient weight to set aside the development plan.

2.

Appeal by Mrs Marsh

The formation of a vehicular access to serve the new dwelling on land to the rear of 36, Vine Cottage Twyford Road Barrow-on-Trent Derby (9/2002/0548)

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

1. *An approval would result in the introduction of additional vehicle movements at an access which is substandard in terms of visibility to and from a section of principle road which could also set a precedent for similar accesses.*

The inspector noted that planning permission had already been granted for a dwelling at the rear of Vine Cottage and the proposed access would be more convenient and attractive for the applicant.

She observed that visibility in the eastern direction was only 142 metres on a stretch of road subject to a 60 mph speed limit. This compared with national guidance in Places, Streets and Movement, which recommended a distance of 215 metres. It would thus be possible that drivers approaching from around the bend to the east would not have enough time to react to vehicles pulling out of the new access and this could increase the risk of danger to road users.

Whilst the access has been used by the appellant to bring a trailer onto the site the level of usage generated by the new dwelling would be significantly higher and insufficient to justify permission. The presence of other accesses on to the main road could did not weigh heavily in the inspector's considerations.

PROSECUTION – BREACH OF SDDC TREE PRESERVATION ORDER

Prosecution result for breach of Tree Preservation Order 185 (land on the former Barrett Mill Farm to the rear of The Ashes and 185 Shortheath, Swadlincote)

In May last year officers were called to investigate unauthorised works to protected trees. It was found that willow and birch trees had been uprooted. The matter was heard at Derby Magistrate's Court on 9 January 2003 where the Defendant, Mr T Hartley junior, pleaded guilty to the offence. He was fined £5000 and required to pay SDDC costs of £675. In mitigation the Defendant gave an undertaking to replant the area from which the trees were removed with 30 birch and willow saplings by the end of November 2003.

