

17/06/2003

**Item** 1.8**Reg. No.** 9 2003 0422 FH**Applicant:**

Mr Alex Dives  
7, Ash Close  
Aston-on-Trent  
Derby  
DE72 2BY

**Agent:**

Mr Robert E Beacock  
51 Blenheim Drive  
Allestree  
Derby  
DE22 2LF

**Proposal:** The erection of extensions at 7 Ash Close Aston-on-Trent  
Derby

**Ward:** Aston

**Valid Date:** 08/04/2003

**Site Description**

The property is situated at the head of a modern cul-de-sac. The host property, a bungalow, is set well below the level of the adjoining carriageway. The street is open plan in character, albeit with properties set at varying distances from the highway.

**Proposal**

The garage would be located adjacent to the edge of the highway. It would be single storey at the roadside but because of the fall in levels the building would be higher at the rear, enabling the provision of a loft over one of the two garage spaces. The ridgeline of the building would be at about the same height as the top of the bungalow, relative to the level of the carriageway. The eaves would be 2.2m above the footway and the ridge of the roof (hipped away from the road) would be at a height of 4m.

**Responses to Consultations**

The Parish Council objects because the proposal would be out of keeping with its surroundings and would have an unacceptable visual impact.

The Highway Authority has no objection.

**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:

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

## Planning Assessment

As the site is in an established residential area the principle of enlarged accommodation is acceptable.

The garage would be the only building in the cul-sac set adjacent to the footway. However Ash Close is curved and the vista is subject to change depending on the viewpoint. Standing at the junction with Manor Farm Road there would be little impact. Midway along the street the garage would appear more as an enclosing feature, albeit at single storey height, with the roof sloping away from the highway. The design of the garage is not out of keeping with mixed styles of buildings in the street scene. The main issue in terms of impact is therefore the extent to which the open plan character of the street is affected. Because of the variation in the positions of dwellings in the street and the alignment of the street the visual impact, on balance, is not felt to be demonstrably harmful.

The proposal satisfies the guidelines on space about dwellings and there would thus be no demonstrable harm to the living conditions of the occupiers of neighbouring dwellings.

On the advice of the Highway Authority there would be no adverse impact on highway safety.

## 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. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. Prior to the garages being taken into use, the new driveway shall be surfaced in a solid bound material (i.e. not loose chippings).
3. Reason: In the interests of highway safety.
4. The site frontage shall be maintained clear of any obstruction exceeding 1 metre in height relative to road level in order to maximise visibility for drivers emerging from within the site onto the highway.
4. Reason: In the interests of highway safety.

5. As soon as the new access is taken into use, the existing vehicular access shall be reinstated in accordance with a scheme which has first been submitted to and approved by the Local Planning Authority.
5. Reason: In the interests of highway safety.

**Informatives:**

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

17/06/2003

**Item** 1.9**Reg. No.** 9 2003 0433 L**Applicant:**S Taylor  
C/O Agent**Agent:**C H Waumsley Dip TP MRTPI  
Freethcartwright Solicitors  
Norman House  
Friar Gate  
Derby  
DE1 1NU**Proposal:** The demolition of the monarch room (function suite to the rear) and the refurbishment of the public house at Kings Newton Ltd 4 Main Street Kings Newton Derby**Ward:** Melbourne**Valid Date:** 07/04/2003

See report 9/2003/0434/F

**Responses to Consultations**

The Parish Council has no objection to this application.

**Recommendation****GRANT** consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of five years from the date of this consent.
1. Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 108-33A, 37B & 40A.
2. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Large scale drawings to a minimum Scale of 1:10 of the porch, chimneys, eaves and verges and 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. These shall be constructed in accordance with the approved drawings.
3. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

4. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
4. Reason: To safeguard the appearance of the existing building and the locality generally.
5. 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".
5. Reason: In the interests of the appearance of the building(s).
6. 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.
6. Reason: In the interests of the appearance of the building(s) and the locality generally.
7. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.
7. Reason: In the interests of the appearance of the building(s) and the character of the area.
8. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
8. Reason: In the interests of the appearance of the building(s) and the character of the area.
9. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
9. Reason: In the interests of the appearance of the building(s), and the character of the area.

Informatives:

17/06/2003

**Item** 1.10**Reg. No.** 9 2003 0434 F**Applicant:**  
S Taylor  
C/O Agent**Agent:**  
C H Waumsley DIPTP MRTPI  
Freethcartwright Solicitors  
Norman House  
Friar Gate  
Derby  
DE1 1NU**Proposal:** The demolition of the monarch room (function suite to rear) and the refurbishment of the public house and the bed and breakfast rooms and the erection of eight dwellings at Kings Newton Ltd Hardinge Arms Main Street Kings Newton Derby**Ward:** Melbourne**Valid Date:** 07/04/2003**Site Description**

The site contains a listed building to the street frontage, which is the original public house. To the rear there is a flat roofed extension, previously used as a function room, and there is a large car park. There is a detached former coach house previously used as overnight accommodation. The site is within the conservation area and mainly within the village confine.

The public house has been closed for the last few months, following a period of declining custom.

**Proposal**

The proposal seeks to retain the historic building and part of its outbuildings (in altered form) as a public house and restaurant. The restaurant would occupy 51 sq. m. and the bar/reception area 24 sq. m. A dedicated parking area would be provided to the rear of the premises within a walled enclosure. There would also be shared parking with the overnight accommodation building, which would be extended and retained in its existing use.

To the rear of the proposed commercial premises, on the majority of the existing car park, eight dwellings are proposed in two blocks, comprising 2, 4 and 5 bedroom units.

Various minor amendments have been received, notably:

- Increased size of car park from 12 to 15 spaces and overspill parking (15 spaces to be shared with overnight accommodation block).
- Revision to plots 6-8 to avoid first floor living rooms overlooking neighbouring gardens.

- Revised elevations to provide more visual enclosure and a simpler appearance when viewed from the surrounding countryside.
- Higher walled enclosure to the car park.
- The provision of two distinct blocks instead of three.
- Indication of boundary treatment, in particular showing the retention of existing hedges.

### **Applicant's Supporting Information**

- a) The development would retain the historic pub and provide an appropriately screened car park. The existing bed and breakfast rooms would be retained and refurbished. 8 houses would be provided in a courtyard arrangement.
- b) The style of development, including the access is espoused by recent Government design publications.
- c) A highway assessment has been prepared by consultants and is acceptable to the Highway Authority.
- d) The proposal is in accord with policy.
- e) The removal of the Monarch Suite would eliminate a source of noise and disturbance. The rationalisation of the pub to a local facility with consequent reduction in car parking would clearly be of benefit to local residents. Furthermore the change in character of the pub to a local facility would have sustainability benefits by not encouraging longer distance trips by potential customers. The facility provided by the Monarch Suite would easily be replaced by other existing facilities in Melbourne.
- f) The proposal is in accord with the conclusions of the appeal inspector and would provide housing in a manner that preserves and enhances the conservation area.
- g) The applicant is a specialist in the licensed trade and anticipates a lucrative return on the business premises.
- h) The restaurant would be a low volume, high quality food operation by contrast with a nearby high volume, low cost unit.
- i) The revised parking layout is in excess of the requirement anticipated by the applicant, but it is provided to address the concerns of the community.
- j) The lease will specify at least one cask-conditioned ale to be kept, no jukebox or pool table to be installed, the restaurant area to be used for that purpose only and the lessee must have appropriate experience.

### Site History

Permission was refused in 2001 for conversion of the public house and coach house to dwellings and the erection of four large houses in the car park (9/2001/0584/F & 0594/L). The subsequent appeal dismissed. The salient points of the Inspector's decision are as follows:

- The Hardinge Arms is an important focal factor in the Conservation Area street scene.
- The design for the new houses would be sympathetic to the character and appearance of the conservation area, which would thus be preserved or enhanced.
- The conversion of the pub to a dwelling would result in the loss of a landmark building in the village and one which can be used by the community. The heart of the village would then be reduced to a purely residential character. That would harm the character and appearance of the conservation area.
- The Hardinge Arms cannot be said to be a vital (community) facility as there are other facilities in the surrounding area.

- The proposed development would be in accordance with the housing policies of the local plan and the advice in PPG3.
- The older part of the listed building along the street has the character of an historic public house. The successive flat-roofed extensions to the rear have no special interest.
- The character of the building would be enhanced by the removal of the unsympathetic function suite to the rear.
- External changes to convert the public house to a dwelling would harm the character of the listed building.
- There is no right to community use of the building even though previous landlord may have allowed its use by local groups.

### Responses to Consultations

Councillor Harrison the ward member has written with the following comments and objections:

- a) The applicant's attempts to comply with Inspector's decision are recognised, in particular with regard to the retention of the public house.
- b) However the parking provision for the public house would be totally inadequate and would certainly give rise to vehicles parking on Main Street with all of the associated problems for residents.
- c) Permission should not be granted without sufficient off-street parking space.
- d) The site density of 8 dwellings is excessive and of a design that would cause the public house to be overbearingly dominated in an unacceptable manner, particularly within a conservation area.
- e) House 1 should be omitted to enable a larger (24 space) car park to be provided.
- f) Negotiation on design should be pursued to arrive at a satisfactory solution.

The Parish Council strongly objects on the grounds that there would be inadequate parking and severe overlooking to the dwelling known as Broadways.

Melbourne Civic Society supports the proposals and comments as follows:

- a) The proposal appears to be consistent with the spirit of the appeal decision.
- b) The residential component is superior to the earlier scheme, providing a mixture of house types and sizes. The Society particularly welcomes the inclusion of fireplaces and chimneys to give variety to the roofline. (Comment: External chimneys have been omitted from the amended scheme)
- c) The housing development would enhance the conservation area.
- d) The works to the public house appear to be sympathetic, subject to the internal layout being improved.
- e) There is concern over the size of the car park, which may not be adequate. However the Society would not welcome the provision of a larger car park if that detracted in any way from the quality of the residential development at the rear. Indeed the provision of excessive car parking may attract customers from much further afield and detract from the purpose of retaining the pub as a local facility.
- f) The Society would hope to see the use of a variety of materials in the development to emphasise the diversity which is the essence of the village's character.

Kings Newton Residents Association objects as follows:



- a) The site would be too congested to serve the needs of residents and at the same time to allow the pub to function as a viable business.
- b) Parking would be inadequate and a much greater area is needed for this purpose.
- c) There would be parking in the street, causing hazards and inconvenience for residents.
- d) The car park would not be visible to customers and could cause hazardous manoeuvres as cars reverse out of the site in the event of the car park being full.
- e) Emergency services could be obstructed by irregular and overcrowded parking.
- f) The new development would overbear on the Hardinge and other nearby listed buildings, detrimental to their setting.
- g) There would be overlooking to neighbouring properties.
- h) A precedent would be set for development at inappropriate density.

The Highway Authority comments that transport assessments have been carried out and it is concluded on balance that the impact on highway safety would be such that objection could not be justified. Whilst there are some concerns regarding increased vehicle movements at the substandard access onto Main Street during the morning peak hour it is acknowledged that overall there is the potential for a significant reduction in vehicle movements. The internal road layout would not be suitable for adoption and the applicant should undertake not to seek to have the roadway adopted.

The County Archaeologist recommends a watching brief in order that issues concerning the origins of the Kings Newton can be addressed.

The Environmental Health Manager and Severn Trent Water Limited have no objection in principle.

### **Responses to Publicity**

17 letters have been received objecting as follows:

- a) The proposed pub car park is inadequate and would lead to on-street parking to the detriment of highway safety and residential amenity. This was a major problem in the 1960s until the present car park was built.
- b) There would be unacceptable overlooking to neighbouring property.
- c) The development would be overbearing on neighbouring property.
- d) The existing tall and mature hedgerow to the western boundary of the site must be retained in the interests of residential amenity, wildlife and the character of the area.
- e) The new houses would be out of character with the conservation areas and nearby listed buildings.
- f) The new houses would be overbearing and would dominate adjacent historic buildings.
- g) Lighting to the site should be controlled in the interests of residential amenity and the conservation area.
- h) Parking for the overnight units would be inadequate.
- i) The drawings understate the amount of seating capacity available. There could be 46 diners and another 20 people in the bar/garden.
- j) The Packhorse Inn at the end of the village can seat 62 people and has 41 parking spaces. The car park is frequently full. Therefore the number of spaces at The Hardinge should be more than doubled.
- k) The majority of local opinion would be satisfied if House 1 were to be omitted and the car park extended accordingly. This would also enhance the appearance of the site.
- l) Access for emergency vehicles would be impaired.

- m) The access is inadequate for the traffic that would be generated.
- n) The car park would not be visible to customers and could cause hazardous manoeuvres as cars reverse out of the site in the event of the car park being full.
- o) The pub business may not be viable and the applicant would then apply for conversion to residential, which is what he originally wanted.
- p) The Monarch Suite should be kept.
- q) There would be loss of light to adjacent property.
- r) The reduction in noise and disturbance is welcomed.
- s) There should be traffic calming in Main Street.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Housing Policy 6 and Environment Policies 9, 10 & 12.

Local Plan: Housing Policy 5 and Environment Policies 12, 13 & 14.

Draft Local Plan: Policies H1 and T9.

### **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 and the listed buildings.
- Residential amenity.
- The value of the Monarch Suite as a local facility.
- Highway safety and parking.
- Sustainability.

### **Planning Assessment**

The proposed dwellings would be within the confines of Melbourne, a serviced settlement. Therefore the principle of residential development on this brownfield site is supported by the housing policy for villages.

The removal of the Monarch Suite and the development of the car park as proposed in the amended plan would be sympathetic to the character and appearance of the Kings Newton Conservation Area and would thus preserve or enhance it. The setting of nearby listed buildings would not be harmed. The retention of the frontage historic buildings as a public house and overnight accommodation would preserve the character of the conservation area and retain the historic character of the listed building.

With regard to existing dwellings the proposal satisfies the supplementary planning guidance for space about dwellings. Even though some of the garden depths do not strictly meet the guidance, the distances from the adjoining boundaries are largely the same as the previous scheme that the Inspector had no objection to. Also, in view of the latest amendments removing first floor main habitable room windows from the rear of plots 6 to 8, the impact on neighbours is therefore acceptable. The reduction in business use of the site would also be likely bring improved living conditions for neighbours in terms of general disturbance.

On the basis of the previous appeal The Monarch Suite is clearly not an indispensable community facility and there is no justification to seek its retention on this basis.

On the basis of the advice of the Highway Authority the development would not give rise to adverse highway safety conditions, and no objection was raised to the parking provision initially proposed (now increased by the applicant in response to local concerns). The advice in PPG13 is reflected in the policy and standards set out in Policy T9 of the draft local plan. It is clear that parking standards are now to be regarded as maxima rather than minima. The restaurant floor space would therefore be expected to generate a maximum requirement of 13 parking spaces, including parking for staff. The bar area would require a maximum of 24 spaces based on 1 space per square metre of bar area. The provision of 15 spaces, plus shared parking with overnight accommodation units therefore falls short of the maximum joint provision. However it would be clearly contrary to government advice to seek more parking than is required by the specific business use of the premises. The applicant has stated that it is intended to cater for restaurant and local trade and to discourage trips by visitors from a greater distance. The layout of the bar indicates a seating area that would further reduce the amount of parking likely to be needed. The most likely source of difficulty with parking provision would be if the restaurant floor space were to be given over to a drinking area. However the application of an appropriate condition would ensure that the Local Planning Authority retained control over this eventuality.

The provision of housing in this location is in accord with sustainable development objectives by using brownfield land in a serviced settlement. The development tends toward the higher densities sought in PPG3 whilst maintaining the character of the area. The elimination of a potentially heavy traffic generating use from the village would further serve to meet these objectives.

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

### **Recommendation**

Subject to the applicant entering into a unilateral undertaking to not request adoption of the internal road and to form a management company to maintain the road **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 nos. 108-33A, 37B, 38A, 39A & 40A.
2. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Large scale drawings to a minimum Scale of 1:10 of the porch, chimneys, eaves and verges and 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. These shall be constructed in accordance with the approved drawings.

3. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

4. Samples of the following materials, and where necessary specifications for the pattern of laying, shall be submitted to and approved in writing by the Local Planning Authority before development commences:

facing bricks;

stonework;

roof tiles;

capping to walls and parapets; and

external hard surfaces.

The development shall be implemented in accordance with the approved details.

4. Reason: To safeguard the appearance of the existing building and the locality generally.

5. 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".

5. Reason: In the interests of the appearance of the building(s).

6. 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.

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

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

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

8. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

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

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

10. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflight(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) 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.

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

11. 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.

11. Reason: In the interests of the appearance of the area.
12. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
12. Reason: In the interests of the appearance of the area.
13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
13. Reason: In the interests of the appearance of the area.
14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwellings 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.
14. 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.
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. No work shall take place on the site until details of a scheme for the disposal of surface water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
16. Reason: In the interests of flood protection.
17. Unless as may otherwise be approved in writing by the Local Planning Authority, no development shall be commenced until space has been provided within the curtilage for site accommodation, storage of plant and materials, loading/unloading, parking and manoeuvring of goods vehicles, and parking and manoeuvring of employees' and visitors' vehicles, in accordance with a scheme that shall have previously been submitted to and

approved in writing by the Local Planning Authority. The approved facilities shall be retained throughout the construction period.

17. Reason: In the interests of highway safety.
18. No part of the development shall be taken into use until the associated car parking and manoeuvring space has been provided as shown on the submitted plan. Thereafter the facilities shall be retained free of any impediment to their designated use.
18. Reason: In the interests of highway safety.
19. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the restaurant area shown on the submitted plan shall not be used for any other purpose set out in Class A3 to the Order without the prior written approval of the Local Planning Authority.
19. Reason: To ensure that the available parking provision is commensurate with the character of the business undertaken at the premises.
20. An archaeological watching brief shall be undertaken on all excavation or earth moving associated with the development. The watching brief shall be undertaken by a suitably qualified archaeological contractor in accordance with a written specification that shall have previously been submitted to and approved in writing by the Local Planning
20. The site lies in an area of archaeological interest.

Informatives:

17/06/2003

**Item** 1.11**Reg. No.** 9 2003 0447 F**Applicant:**

U C I Logistics Ltd  
 Burton Road  
 Findern  
 Derby  
 DE656BG

**Agent:**

Burks Green Architects and Engineers  
 Sherwood House Sherwood Avenue  
 Newark  
 Nottinghamshire  
 NG241QQ

**Proposal:** The erection of two warehouse units with ancillary parking, vehicle wash and fuelling facilities at U C I Logistics Burton Road Findern Derby

**Ward:** Etwall

**Valid Date:** 10/04/2003

**Site Description**

The site comprises the former Atkins Garage complex now operated by UCI. The site is 'L' shaped with the longer arm fronting the A38. The site is enclosed on three sides by substantial hedges. The A38 frontage is partially screened by a substantial bund that has trees on it for part of its length. The southern most end of the A38 frontage is open.

There is a footbridge over the A38 that starts in the application site and terminates in private land on the opposite side of the road. The site has a direct access and egress onto the A38. It lies at the bottom of a slope when viewed from the north bound carriageway of the A38 and is well screened by the bund and tree planting when viewed approaching the site on the south bound carriageway.

The closest dwelling to the site is Park Farm that directly abuts the site boundary at its south-west corner. There are two other dwellings on Findern Lane Close to the site, one that has its rear elevation towards the site boundary, the other presenting its side elevation to the site. Between that dwelling and the site boundary are nursery glass houses. On the opposite side of the A38 lie dwellings on Doles Lane and Burton Road. Both these groups of houses have the road between them and the site as well as the A38.

Permission has been granted in outline for the erection of a hotel on land between Doles Lane and the A38. No detail permission exists.

**Proposal**

The submission has been amended significantly since it was made. Warehouse 'B' has been removed from the application. The area of the landscaped bund on the northern most part of the site frontage is to be landscaped where no planting exists now. A noise barrier fence is proposed

along the boundary to Park Farm where it abuts the lorry parking area. Further landscaping is now proposed adjacent to the north west boundary adjacent to the lorry parking area.

Warehouse 'A' is 13 metres high at the eaves with a maximum height to the ridge of 16 metres. A silver grey cladding would be used on the walls. To a height of 11 metres, the cladding would have a vertical emphasis above 11 metre the cladding would be mounted horizontally. The roof cladding would be Goose wing Grey. The building would have an over all floor area of 9950 sq. metres (107000 sq. feet). Of this some 650 sq. metres is office space provided on 2 floors. The applicants have submitted photographs of the proposed building in situ to illustrate the potential impact of the building(s) from various vantagepoints. These are available for inspection on the file. It should be noted that these were prepared before the application was amended and so show warehouse 'B' as well.

The existing HGV refuelling area would be removed as part of the proposals:

### **Applicants' supporting information**

A design statement that sets out the objectives of the development accompanies the application. Again, this was prepared prior to the amendment of the application to remove warehouse 'B'. The full statement is available for inspection but the design principles/solutions are summarised below.

- The buildings optimise the use of the site to create the required floor space.
- The internal space requires a minimum of 12 metres clear area within the building. A hipped roof has been selected to help to lower the perceived height of the building. A parapet roof would emphasise the height of the building by creating a higher façade.
- Colour – from most dwellings the buildings would be seen against the backdrop of the sky. Thus sky tones have been examined and the metallic silver selected as giving a suitably light colour. The use of the grey colour for the roof has been selected for the same reasons.
- The use of horizontal elements in the application of the cladding would also help to break up the mass of the building.
- The offices would have full height glazing with powder coated aluminium frames.
- Parking and manoeuvring space has been provided in accord with adopted standards.
- Drainage will meet the requirements of the Environment Agency.
- Landscaping proposals will ensure that the existing hedges and trees are retained and enhanced, particularly on the critical eastern boundary. Other landscaping proposals would help to integrate the building into its surroundings.

The application is also accompanied by a Traffic Impact Assessment that concludes, in basic terms that there would be a reduction in traffic, especially HGV's if the development went ahead. This document is also available for inspection on the file.

There is also a condition report on the footbridge over the A38, this is available for inspection on the file. The conclusion is that the bridge is in need of maintenance but the overall structure is in reasonable condition.



## Planning History

Permission was granted in the early 1990's for a warehouse on the area to be occupied by warehouse 'A'. That warehouse was not as tall and the floor space was not as great. The scale of the building reflected the technology available at that time.

The site has a long planning history that dates back before the 1948 Planning Act. It has been used as a haulage depot for many years. There has been a transport café on the site as well as a full time petrol filling station. (This is the same area now used for diesel sales to HGV's).

The site was extended after an appeal towards the west; this is now a lorry parking/storage area on the site.

## Responses to Consultations

All the following comments/objections relate to the original application prior to amendment.

Burnaston Parish Council objects for the following reasons:

- a) These 2 buildings are larger than any other structure in the vicinity and will have considerable impact on the surrounding area, the topography of which almost forms a bowl like area between Derby, Burnaston and Findern. These buildings will be highly visible from nearby properties in Burnaston, Findern and Mickleover Country Park. They will not be in keeping with the area and cannot be compared to the Toyota development that is situated over the crest of a hill and is not visible from this area.

The Parish Council questions why they have to be so high and could not the same cubic capacity be achieved by one large building at a lower height. The choice of colour has to be actually seen although from the choice of word (goose wing grey) they might not appear too bad, but the Parish Council does not want to a repeat of the Hays building at the Dove Valley Park, Foston.

- b) No landscaping measures are mentioned. The Parish Council considers this to be essential to help minimise the visual impact. Toyota is held as a perfect example of how effective tree screening really works.
- c) Although the report indicates that fewer movements should occur during each day, the Parish Council has great concerns about the safety of the junction of Findern Lane and the A38. At this junction and slip road there are:

1. Vehicles travelling at speed using the whole of the slip road to gain access to the UCI site. Lorry drivers using UCI confirm that they find it difficult and dangerous to encounter traffic emerging from Findern Lane.

2. Vehicles attempting to emerge from Findern Lane and join fast moving traffic on the A38 whilst using/negotiating a slip road by vehicles turning off the A38 towards Burnaston or by vehicles coming strength down the into the UCI site a left indication can mean either. The Parish Council is aware of at least one accident involving a motorcyclist which did not appear in the statistics provided with the application.

The creation of extra jobs will result in heavier use of the route from the A516 through Burnaston village by some UCI employees, as it will considerably cut down on mileage. This will be along narrow country lanes, with no pavements and speed limit where there is already conflict between local morning traffic and drivers heading for the UCI site-often appearing to be late!

Better signage with carefully thought out wording on highly visual road signs might go some way to helping with these concerns.

- d) There is no mention in the proposal of lighting. It is assumed as this is a 24 hour operation and that there will be considerable security but the Parish Council would not wish to have the present situation where most of the light is lost to the atmosphere or dazzles road users not he A38 or properties along Findern Lane (half a mile away). The Parish Council has complained about light pollution before and brought only limited results for a very short period. Proper controllable environmentally friendly down lighting such as Toyota should be insisted upon.
- e) Lorry movements during 24 hours operation could cause noise disturbance to nearby neighbours. Appropriate noise control measures should be imposed. The interchange of lorry parking for car parking at the area behind Park House could help in this respect. Restrictions should also be placed upon the lorry wash and this can be a noisy operation and consideration should be given to the neighbours by keeping the wash to daytime only.
- f) The Parish Council does want to see a scheme developed on this site in order to help with employment and to bring stability and order to what is at present a jumbled collection of buildings and portacabins with a large storage area of pallets. The Parish Council would wish to avoid the pallet fire of 2 years ago. The Parish Council would hold up Toyota as a model to be copied.

Findern Parish Council has objected to the development in support of the objections raised by the local community as set out below.

The Highways Agency has no objection subject to the removal of the diesel refuelling and requests that the footbridge be upgraded and brought into public use.

The County Highways Authority has no comments.

The Environment Agency has no objection in principle subject to conditions covering an assessment of potential contamination, submission of details of surface water runoff control, and all effluent to be passed to the public foul sewer and bunding of any fuel storage areas. The various informatives in the letter will be forwarded to the applicants.

The Environmental Health Manager has requested further information about noise attenuation and the hours of operation of the site. This information has been received and the response of the Environmental Health Manager will be reported at the meeting.

### **Responses to Publicity**

42 letters have been received objecting to the development for the following reasons:

- a) Traffic noise would be a constant 24/hrs a day and the proposal would add to the noise from the A38. This would be especially so at night when sleep would be disturbed.
- b) There would be an increase in traffic from the site and an increased danger from lorries pulling out into the A38. We have already witnessed these problems and there has been a fatal accident in the vicinity of the site.
- c) The buildings would be an eyesore. It would dominate the skyline and not be in keeping with the semi rural residential area. The colour of the buildings would add to the intrusion.
- d) Traffic fumes already drift across homes. Has a detailed assessment been carried out to establish what impact the increased traffic would have on residents with breathing disorders.
- e) The proposals suit big business and not local residents.
- f) There would be a loss in the value of houses.

*The above objections appear in a letter circulated to residents and submitted individually by them. There are 36 of these letters. The following objections/comments are made in addition to the points raised above.*

- g) The introduction of facilities to promote business is not objected to but it is too close to a residential area.
- h) There is no mention of the erection of a bank to lessen noise
- i) There is a potential for more traffic through Findern if lorries lose their way
- j) People moved onto Doles Lane with the knowledge that there was a main road and a haulage depot. The increase in traffic and noise was not anticipated and the situation would be made worse by the proposals for the reasons set out in a)-f) above. The situation will be worse in the immediately adjoining dwelling. The lorry wash would add to the noise levels.
- k) The level of lorry traffic is much higher than anticipated when the A38 was designed. Lorries pulling out from the site cause a constriction on the flow of traffic that can have the effect of reducing the road to a single carriageway. This is dangerous.
- l) It is not just the noise but also the vibration that has the potential to create damage to property.
- m) The lack of landscaping is an insult; the building has been designed to be as cheap as possible and this should not be allowed. More landscaping should be insisted upon.
- n) The village has had enough development with the Toyota factory and the A50. Toyota can afford to pay its suppliers a little more money to travel to and from a more suitable site. This application should be refused.
- o) The height of the building should be reduced to match the surrounding buildings.
- p) The land registry plan and site plans have a discrepancy between them.
- q) There is concern about the amount of light that may cause dazzle.
- r) It would be more acceptable if the proposed lorry parking area next to Park Hall Farm were used for cars.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 3 & 4; Economy Policy 3

Local Plan: Environment Policy 1, Employment Policy 1 & 5

Emerging Local Plan: Policy ENV 7, 15, 21; Policy EMP 2, 3.

### **Planning Considerations**

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

- The Development Plan
- Impact on neighbours
- Impact on the countryside
- Planning history
- The A38 Footbridge

### **Planning Assessment**

The Development Plan encourages the reuse of land. The current use of the site is as a haulage depot and the main activity on the site after the building is constructed would still involve a significant amount of lorry movements, primarily to the Toyota site. Policies allow for the expansion of existing firms if there is no adverse impact on the countryside or neighbours.

The removal of Warehouse B from the application means that the main issue is the impact of the remaining building that is located at the northern end of the site. This removes built development from the two closest dwellings on Findern Lane. The residents of these dwellings and others to the south of the site would still have a view of the site. It should be noted that the applicant's are likely to want to come back with proposals for another warehouse on the site but that is not a material consideration in determining the proposal now before the Authority.

There is no doubt that the building would be very apparent from the south when approaching on the A38. It would also be apparent, at a distance from some dwellings in Burnaston. The closest dwellings to the building are those on Burton Road and Doles Lane in Findern.

The upper part of the building would be apparent from these properties through a roadside hedge and beyond the landscaped bund on the application site. The Findern interchange and trees along the northern boundary of the site screen the view from the north on the A38.

The basic consideration is whether the siting of the building of the scale proposed would have such an adverse impact on the dwellings on Doles Lane sufficient to warrant a recommendation to refuse planning permission.

The applicants have set out their design principles and it is accepted that a light colour cladding would help to mitigate the impact of the development from the dwellings. In addition, the upper part of the building would be seen both against the background of the sky and through the landscaping on the site behind which the building would be substantially located. The screening and use of light coloured materials would mitigate the impact of the building from the dwellings.

The view from the south on the A38 would not be capable of mitigation as the views are always down into the site. The other consideration from the south is that the existing use already has a detrimental impact on the character and appearance of the countryside hereabouts. The new building would result in the removal of a significant number of wooden pallets from the site and unattractive, albeit non-obtrusive temporary buildings from the land.

Neighbours have raised concern about the impact of noise, traffic and light. The traffic impact study indicates an overall fall in the number of HGV's entering and leaving the site. This would have the effect of reducing the amount of noise emanating from the site. It also needs to be borne in mind that the dwellings closest to the site have traffic noise from the A38 on an almost constant basis. It would be difficult to substantiate an objection on these grounds and as such little weight has been attached to these objections.

Lighting on the site can be controlled by condition and one such condition is recommended. Loss of value to property is not a material consideration in determining any application. The bridge over the A38 starts and terminates on private land. A section 106 Agreement would need to be signed by both parties to gain access to the bridge, carry out repairs and undertake future maintenance.

The applicants have submitted a visual assessment of the bridge that seems to indicate that it is capable of restoration with modest expenditure. There is a public footpath in the vicinity of the bridge and its availability would enhance the local footpath network.

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

A) That the Planning Services Manager and Legal and Member Services Manager be **AUTHORISED** to secure an agreement under Section 106 of the Town and Country Planning Act 1990 to secure public access to the footbridge over the A38, bring about its repair in accordance with an agreed scheme of works and a commuted sum to cover future maintenance works.

B) **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. 14042/A1/100 Rev C.
2. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No development shall take place until precise details of the sources of illumination, including intensity, angling and shielding, and the area of spread of light have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them.
3. Reason: To preserve amenity and/or prevent danger to road users.
4. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
4. Reason: In the interests of the appearance of the area.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
5. Reason: In the interests of the appearance of the area.
6. 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).
6. Reason: To protect the amenities of adjoining properties and the locality generally.
7. The parking spaces and manoeuvring areas shown on the submitted plan 14042/A1/100 Rev C shall be hard surfaced with a solid bound material and marked out prior to the first use of the development and thereafter retained for that purpose free of obstruction.
7. Reason: In the interests of highway safety.

8. No development approved by this planning permission shall be commenced until:

- a) A desktop study has been carried out which shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information. Using this information a diagrammatical representation (Conceptual Model) of the site for all potential contaminant sources, pathways and receptors shall be produced.
- b) A site investigation has been designed for the site using the information obtained from the desk study and any diagrammatical representations (Conceptual Model). This should be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on the site. The investigation must enable a risk assessment to be undertaken relating to ground and surface waters both on and off the site which may be affected, and refinement of the Conceptual Model, and the development of a Method Statement detailing the remediation requirements.
- c) The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment has been completed.
- d) A Method Statement detailing remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the Site Investigation has been submitted to the Local Planning Authority. This should be approved in writing by the Local Planning Authority prior to that remediation being carried out on the site.

Prior to the commencement of main site works, the approved remediation works shall be completed in accordance with the approved method statement to the satisfaction of the Local Planning Authority. Appropriate validation of the remedial scheme shall be submitted to the Local Planning Authority for written approval.

- 8. Reason: To ensure the site is suitable for its intended use, to protect the quality of the water environment.
- 9. No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by of the Local Planning Authority. The scheme shall incorporate sustainable drainage principles and shall be implemented in accordance with the approved programme and details.
- 9. Reason: To prevent the increased risk of flooding
- 10. All foul and contaminated water, including vehicle wash effluent, shall be directed to the main foul sewerage system unless otherwise approved by the Local Planning Authority in writing.
- 10. Reason: To prevent pollution of the water environment.
- 11. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
- 11. Reason: To prevent pollution of the water environment
- 12. Any facilities for the storage of chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the

compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

12. Reason: To prevent pollution of the water environment.
13. The acoustic fencing indicated on Drawing No 14042/A!/100 Rev C shall be erected prior to the occupation of the building hereby permitted in accordance with a precise specification submitted to and approved in writing by the Local Planning Authority before the development is commenced.
13. Reason: In the interests of the amenity of the occupiers of the adacent dwelling.
14. Other reasonable planning requirements of the Environmental Health Manager.
14. Reason:

#### Informatives:

In their letter to this Council dated 9 May 2003, the Environment Agency drew attention to its various other requirements. A copy of that letter is attached for your information albeit that a copy has been sent to you.

17/06/2003

**Item 1.12****Reg. No. 9 2003 0480 FH****Applicant:**

Mr A Dawson  
The Hill Lodge, Deep Dale Lane  
Barrow-on-trent  
Derby  
DE731NH

**Agent:**

Tim Foster  
2 Broomfield Cottages  
Morley  
Ilkeston  
Derbyshire  
DE7 6DN

**Proposal:** The erection of a conservatory and garage at The Hill Lodge  
Deep Dale Lane Barrow-on-trent Derby

**Ward:** Stenson

**Valid Date:** 17/04/2003

**Site Description**

The site is the former lodge to The Hill and is served by a private drive in conjunction with that property. A stable block has recently been erected in the adjacent paddock along with a pig enclosure.

**Proposal**

The existing garage to the property would be demolished. The new garage would be sited in the paddock adjacent to the garden area. The conservatory would be attached to the north flank of the house, wrapping around the corners. The proposed roof pitch of the garage has been reduced to 35° and its overall height would be 5.5 metres.

Site History

9/0390/1320/F – Stable block. Work commenced within five years of the grant of permission and the current owner is completing the development.

9/2002/1020/F – Conservatory. This has not been built the current proposal would be an alternative scheme.

9/2002/1038/F – Two storage sheds (one in the garden and one in the paddock).

9/2002/1211/F – Hardstanding and access. This work has been substantially completed.

9/2003/0480/F – Feed store and tack room attached to stable block. Permission refused on the grounds of visual impact and conflict with policy in the emerging local plan.

**Responses to Consultations**

The Parish Council and the Highway Authority have no objection.



## Responses to Publicity

A neighbour objects in the following terms:

- a) The site has already been overdeveloped.
- b) The conservatory would blight the appearance of the site.
- c) The applicant has a right of way over a private drive. The intensification of use of the drive, caused by business usage of the site, would exacerbate congestion problems in the drive.
- d) The stable block is effectively a two-storey building. The proposed garage would be of a similar size and the result would be two 2-storey office buildings in the green belt.
- e) It is clear that the site is being not being developed for its stated purposes and a site inspection would reveal this.
- f) The scheme would detract from the quite and peaceful enjoyment of the area and its visual amenities. It would result in the site eventually being used for business purposes, resulting increased traffic activity and danger to users of the drive.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4.

Local Plan: Environment Policy 1 and Housing Policy 13.

## Planning Considerations

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

- The principle of development.
- Impact on the countryside.
- Residential amenity.
- Highway safety.

## Planning Assessment

As the development relates to works closely related to an existing residential property the development is capable of being acceptable in principle.

The conservatory would cover the flank of the building at ground floor level and wrap around the corners. It would be readily visible from the adjacent private drive. However it would be substantially screened from public vantage points. The garage would be sited outside the curtilage of the dwelling but would be closely related to it. There is mature existing screen vegetation. Therefore the overall impact of the development on the character of the countryside, as seen from public vantage points, would not be unreasonable.

The property is well way from its nearest neighbours and there would be no demonstrable impact on their living conditions. The issue of business use has previously been investigated and no evidence of such usage has been found. If the applicant subsequently uses the buildings or land for business purposes then the materiality of such a change would need to be investigated as a separate matter. None of the permissions so far granted imply or grant permission for such usage of any part of the site.

There would be no material impact in highway safety as a direct result of this 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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 179 HL 007 received 23 May 2003.
2. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
3. Reason: To safeguard the appearance of the existing building and the locality generally.

**Informatives:**

17/06/2003

**Item 1.13****Reg. No.** 9 2003 0544 U**Applicant:**

J S Bloor (Measham) Ltd  
 Legion House  
 South Street  
 Ashby De La Zouch  
 Leicestershire  
 LE65 1BQ

**Agent:**

N. Wilkins  
 J. S. Bloor (Services) Ltd  
 Ashby Road  
 Measham  
 Derbyshire  
 DE12 7JP

**Proposal:** Construction of new section of access road and change of use of tree planting areas to domestic gardens and public open space at the rear of plots 5, 6 and 20-27 inclusive of the Residential Development Site At The Rear Of 143 195 Wood Lane Newhall Swadlincote

**Ward:** Newhall

**Valid Date:** 06/05/2003

**Site Description**

This strip of trees and shrubs is on the south eastern boundary of the former Bretby Business Park car park and to the rear of properties on Wood Lane.

**Proposal**

This proposal should be read in conjunction with the reserved matters application for residential development on the adjoining land reported elsewhere in this agenda.

It is proposed to use the wooded narrow strips of land to the rear of properties on Wood Lane as garden and open space serving the proposed residential development. The land was planted to provide a wooded screen between the houses and Bretby Business Park. The trees are now mature and provide a significant amenity to the area and as such are now subject to tree preservation orders.

**Planning History**

Outline planning permission to develop the adjoining land for residential was granted in December 1999. The land, subject of this application, was not part of the outline approval.

**Responses to Publicity**

A fifteen signature petition has been received from residents of Wood Lane objecting to the proposal on grounds that: the tree belt planted to screen residents of Wood Lane from Bretby Business Park should remain as 'no-mans land'; conversion of the land to garden to incorporate

the trees would extend to their gardens resulting in a loss of privacy and safety to their properties. They consider that the proposal would destroy the trees.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Environment Policy 16

Local Plan: Environment policy 9

### **Planning Considerations**

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

- The potential loss of existing tree cover
- The loss of privacy and safety to existing residents

### **Planning Assessment**

The trees are now covered by a tree preservation order, which will enable the Council to retain control over how they are managed and to ensure that their amenity value is safeguarded. Certain work is now proposed to the trees under a separate application in accordance with good forestry practice involving safety work, thinning and removal of dead wood, which will be to their long term benefit.

The privacy of existing residents would not be unduly affected by the proposed gardens being adjoined to them as this is a common feature of urban living and security is likely to be improved due to increased surveillance and the land being in individual private ownership.

### **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 submitted details, prior to the occupation of the 14th dwelling on adjoining site outlined in blue, the area marked on the submitted drawing M160\_1\_3D as Public Open Space shall be made available for its designated use only in perpetuity.
2. Reason: To comply with Supplementary Planning Guidance and Recreation and Tourism Policy 4 of the South Derbyshire Local Plan.
3. 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.
3. Reason: In the interests of the appearance of the area.

**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.

This permission does not confer any rights on any party to undertake any works to trees covered by tree preservation orders without the express permission of the Local planning Authority following the submission of an appropriate application.



17/06/2003

**Item 2.1****Reg. No. 9 2003 0169 FH****Applicant:**

Mr Mrs J T Walker  
 Crow Trees  
 Church Lane  
 Barrow On Trent  
 Derbyshire  
 DE73 1HB

**Agent:**

B. Williamson  
 Mr. B. A. Williamson  
 Genista  
 Broomhills Lane  
 Repton  
 Derbyshire  
 DE656FS

**Proposal:** Extensions and alterations at 59, Crowtrees Church Lane  
 Barrow-on-Trent Derby

**Ward:** Stenson

**Valid Date:** 17/02/2003

**Site Description**

The property is a cottage with attached outbuildings, set at the end of Church Lane. It is in the conservation area.

**Proposal**

Fundamentally the proposal seeks to provide a two-storey extension that would result in a structure similar in mass to the host dwelling, separated by a single storey link. Negotiations aimed at reducing the impact of the development on the dwelling and the conservation area have been undertaken, but agreement has not been reached. The applicant has amended the proposal by the removal of one of three proposed dormer windows.

**Applicant's Supporting Information**

- a) The reduction in roof height and omission of dormers from the extension would severely reduce the practical available floor space.
- b) The proposal is in keeping with the main dwelling and would still appear as an ancillary building.
- c) The single storey range is arguably not subordinate, as it has been used as part of the living accommodation for over 100 years.
- d) The extension would be largely unseen from any public vantage point.
- e) The existing building has very low ceiling heights. The extension would enable reasonable sized rooms to be provided and the dormers would enable the applicant to enjoy views of the River Trent.
- f) The applicant has a growing family and the proposal is required to serve their needs.
- g) Whilst the applicant has tried without success to purchase land to the rear of the property the proposal is the only available option.

- h) The applicants have carried out much sympathetic restoration work and have no wish to compromise the house.
- i) The proposal would enhance the property and provide family accommodation that can be enjoyed for years.

### **Responses to Consultations**

The Environment Agency has no objection in principle.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Environment Policy 9.

Local Plan: Environment Policy 12 and Housing Policy 13

### **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.
- Residential amenity.
- Flooding.

### **Planning Assessment**

This application is reported to the committee at the request of Councillor Shepherd.

As the proposal relates to the extension of an existing dwelling it is acceptable in principle.

The proposed extensions would substantially alter the cottage. Visually it would appear much larger than the actual size of the extensions might suggest because of the design, which evens up the roof heights and introduces architectural elements that repeat those on the principal façade. At present the character is of a small cottage with ancillary ranges. Without the opportunity to consider alternative designs it is far from certain that this is the only solution available to the applicants. If it is then the harm that would be caused to the character of the building and the locality would outweigh the applicant's personal circumstances, particularity having regard to the statutory duty to have regard to the desirability of preserving or enhancing the character or appearance of the conservation area.

The proposal would not have a demonstrably adverse impact on neighbours.

There would be no increased risk of flooding to others, although the subject building may be subject to rare flood events.

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



## **Recommendation**

**REFUSE** permission for the following reasons:

1. At present the character is of a small cottage with ancillary ranges. The proposed extensions would substantially alter the cottage. Visually it would appear much larger than the actual size of the extensions might suggest because of the design, which evens up the roof heights and introduces architectural elements that repeat those on the principal façade. As such the proposal would be harmful to the character and appearance of this part of the Barrow on Trent Conservation Area, contrary to the following development plan policies:

Derby and Derbyshire Joint Structure Plan Environment Policy 9; and

South Derbyshire Local Plan Environment Policy 12 and Housing Policy 13.

**Informatives:**



## **APPEAL ALLOWED**

Appeal by Grundy Ron Grundy (Melbourne) LTD

The change of use of touring caravan park to use for static holiday homes and tourings caravans at Shardlow Marina London Road Shardlow Derby (9/2002/0409)

The appeal was against the imposition of Condition No 9, which stated:

*The caravans shall not be occupied during the months of November to March inclusive.*

The reason for the condition was to reduce the risk of flooding.

The inspector noted that the Environment Agency had been unaware that the existing touring caravan site is subject to an 11-month licence. Had it been so aware, suitable agreement may have been reached. He felt that the flood risk issue could be adequately addressed by alternative conditions, particularly as no part of the site is within the flood plain.

On the green belt issue he considered that the caravans would have no greater impact on its openness than the touring caravan use. He also accepted that the character and appearance of the conservation area would be preserved.

Accordingly the planing conditions were modified as follows:

*The caravans shall not be occupied during the month of February.*

*Static caravans shall not be stationed outside the area edged red on the plan dated 26 March 2003 submitted to the Planning Inspectorate with the appellant's letter of 3 April 2003 and no more than 32 static caravans shall be located within the area edged red on that plan.*

*Within 3 months of the date of this decision, an emergency flood plan, including the means of evacuation of the site in the event of major flooding, shall be submitted to and approved in writing by the local planning authority.*

## APPEALS DISMISSED

Appeal by Mrs Mc Clymont

Outline application (all matters except means of access to be reserved) for the erection of four dwellings on land at the side and rear of 113 Wood Lane Newhall Swadlincote (9/2002/0338)

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

1. *The site is not identified for development in the current or emerging Local Plan and is therefore a windfall site. PPG3 defines windfall sites as previously-developed sites that have unexpectedly become available. It states that no allowance should be made for green field windfalls. The Councils Urban Capacity Study of the Swadlincote Urban Area, published in 2000, demonstrates that, together with existing commitments, there is sufficient previously used land in Swadlincote to meet Structure Plan Housing requirement for the Swadlincote Sub Area. There is no need, therefore, to release this site for development. The proposal is therefore contrary to the guidance in PPG3 and from the Structure Plan: General Development Strategy Policy 1 and General Development Strategy Policy 2.*
2. *The development would result in the loss of an open area containing mature trees which provides amenity in an otherwise built-up area contrary to guidance in PPG3, and from the Structure Plan: General Development Strategy Policy 1; General Development Strategy Policy 2; Housing Policy 3; Environment Policy 16 and from the Local Plan: Housing Policy 4 and Environment Policy 9.*

The Inspector considered that the case revolved around 2 main issues. These were (a) whether the site is appropriate for housing use, in the light of national and local planning policy for the location of housing development and (b) the effect of the scheme on the character and appearance of the area, in particular the loss of the trees covered by a TPO.

She accepted that the site was in an urban area, well served by public transport but that it was on a greenfield site where development should be resisted. Her conclusion about the orchard was that it was not part of the domestic curtilage of no.113 and therefore did not fall within the definition of 'previously developed land' contained in PPG3.

She also found that the site may well be unused or underused at present, but only because of the age of the present owner/occupier, not because of any failing of the orchard. She had no reason to doubt that remedial pruning, some replanting and active management could rejuvenate the orchard.

She said that whilst policy was designed to steer development to urban areas, the text of the various policies makes it clear that this should not be at the expense of losing pleasant green areas which contribute to the quality, character and appearance of the area.

She examined whether there was a pressing need for the release of this land for housing but found that with the additional 100 units recently granted planning permission at the Qualitas site adequate land was available for housing use.

With respect to the effect of the scheme on the character and appearance of the area, in particular the loss of the trees covered by the TPO she countered the appellant's agents claim that views to the orchard are limited and that she could see it from a number of vantage points. She found the orchard to be 'valuable open space' in accordance with policy and that it adds to the quality of the area and its retention would be in line with PPG3 for greening the residential area. She said the appeal site was most definitely an urban green space worthy of retention.

She found an 'in principle' objection to the grant of planning permission for a scheme which fails to retain trees covered by a TPO and which would likely to result in substantial tree loss in the future. She said that the development would result in the substantial erosion of the natural, leafy appearance of the site resulting in the diminution of the character and appearance of the area and the loss of a positive landscape attribute that can be appreciated by the public.

She concluded that it is Government policy that full and effective use is made of land within existing urban areas. But a balance must be struck to fit new development successfully into sites in established residential areas and to retain urban green spaces.

No award of costs given following costs application made by the appellant

#### Appeal by Mr Heelis

The installation of a roof light in the south elevation of the grade II listed Shaw House Robinsons Hill Melbourne Derby (9/2002/0643)

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

1. *The uninterrupted roof on this prominent unaltered elevation forms an important feature, which along with the attic roof and high eaves line clearly demonstrates the architectural organisation of the house. In the opinion of the Local Planning Authority the proposed rooflight would harm the simple and handsome arrangement of the elevation because of the otherwise unbroken plane of the roof, appearing (so close to the intersection of the roof) uncomfortably cramped and introducing an unbalanced asymmetry into a broadly symmetrical elevation and detracting from the clear architectural organisation. As such the proposal is contrary to Environment Policy 10 of the Derby and Derbyshire Joint Structure Plan and Environment Policy 13 of the South Derbyshire Local Plan.*

The inspector considered the main issue to be the impact of the proposed rooflight on the character and appearance of the listed building.

He noted the roofscape to an important element in the overall appearance and ambience of the property. The rooflight would be an asymmetrical and visually discordant feature within the both the roofscape and the overall façade. Consequently he felt that the rooflight would be detrimental to the character and appearance of the listed building and contrary to the relevant policies.,

The inspector commented on less harmful alternatives suggested by the Council (mindful of the desires of the applicant) and agreed with these.

He also considered examples of other rooflights in other properties but felt that there was insufficient to judge whether that were directly comparable. In any event he concluded that the appeal must be determined on its merits.

Comment: The decision demonstrates that even small-scale alterations to historic buildings can be of acknowledged importance. Where other examples are cited in support of a proposal these need to be directly comparable.

Appeal by Elm And Associates

Outline application (all matters to be reserved) for the residential development of Land Adjoining Castle Court Elvaston Derby (9/2002/0382)

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

1. *The application is considered to be unacceptable as Elvaston is not identified as a sustainable location for further residential development because 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.*

It was clear to the inspector that the development would not constitute a form of development appropriate to the green belt and therefore considered the main issue to be whether there were any special circumstances that might outweigh the firm policy presumption against development.

He did not consider the site to be "infill" because it was open on three sides, despite the presence of a strong evergreen hedge. He saw no other special circumstances to override green belt policy.

The inspector agreed with Council that this is an unsuitable location for new development, in accord with national policy on sustainable development.

