

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

This section includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) and responses to County Matters.

Reference	Item	Place	Ward	Page
9/2006/0615	1.1	Swadlincote	Swadlincote	1
9/2006/0786	1.2	Swadlincote	Swadlincote	5
9/2006/0692	2.1	Woodville	Woodville	12
9/2006/0730	2.2	Hilton	Hilton	15

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

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

29/08/2006

Item 1.1**Reg. No.** 9/2006/0615/FT**Applicant:**

T-Mobile (UK) Limited
 Hatfield Business Park
 Hertfordshire
 AL10 9BW

Agent:

Stappard Howes Associates
 Unit 4a Sovereign Court 2
 Univ. Of Warwick Science Park
 Sir William Lyons Road
 Coventry
 CV4 7EZ

Proposal: The erection of a 18m high monopole, three antennae, two dishes and one equipment cabinet and ancillary development at Dixon Engineering Robian Way Swadlincote

Ward: Swadlincote

Valid Date: 23/05/2006

Reason for committee determination

This application is brought before this Committee at the request of Cllr Lane.

Site Description

Dixon's Engineering is an industrial premise located on Robian Way which forms part of a long established industrial estate close to the town centre. There are a wide variety of types of building in the locality, many of which are highly visible from William Nadin Way, a main approach road into Swadlincote. The Dixon Engineering building is particularly prominent from some directions due to its height of around 12m to the ridge. The existing building is located towards the front of the plot and to both the side and rear is a poorly surfaced yard. The site is enclosed with industrial galvanised fencing and an access gate exists to the northern end of the road frontage.

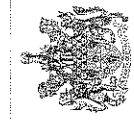
Proposal

In accordance with advice in the Council's 'Mobile Phone Mast Advisory Guidance' the operators entered into pre application discussion with the local planning authority and subsequently submitted this application. The mast shown on originally submitted plans was 20m high. Amended plans have been received and the proposed 18m mast, together with its ancillary cabinets, is to be sited behind the existing building. The proposal is accompanied by an ICNIRP Certificate.

9/2006/0615/F Dixon Engineering

Robian Way

Swadlincote



SOUTH DERBYSHIRE
DISTRICT COUNCIL
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE DE11 0AH

Crown Copyright. All rights reserved.
South Derbyshire District Council
OS Licence No. LA 100019461. 2006

Date Plotted 17/8/2006
Scale 1:2000

Licence No LA 079375

Applicant's supporting information

The applicant's supporting information is summarised as follows:

Plot sheets for the current situation demonstrate that urban and commercial coverage of a significant area between Swadlincote town centre and Bretby Business Park cannot be achieved. Some of this area only benefits from 'in car' coverage. A 20m high mast would provide urban and commercial coverage in the immediate area of the proposed mast with suburban and residential coverage for the majority of the area between the proposed mast and Bretby Business Park.

Responses to Publicity

Five letters of representation have been received complaining about the level of publicity and raising the following objections:

- Would be an eyesore on the skyline
- The industrial estates is poorly screened from the residential properties that face it
- Detriment to health especially to children who play on Robian Way and use this route to Pingle School
- There are other more suitable locations away from homes or places of work
- Interference with TV signal
- Devalue property

Development Plan Policies

The relevant policies are:

RSS8: N/A

Joint Structure Plan: Strategy Policy 2

Local Plan: Community Facilities Policy 4

Planning Considerations

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

- Whether there is a need for an additional base station
- If so whether the application site is the most appropriate location taking into account visual intrusion and suitable alternative sites/mast sharing

Planning Assessment

Need

In accordance with the Council's Advisory Guidance the question of whether there is a need for an additional mast was assessed. From the submitted information the LPA accepts that there is a gap for 'in building urban and commercial' coverage over parts of the built up area between Swadlincote town centre and Bretby Business Park. The submitted information also shows that this area does nevertheless have 'in car' reception but regard has been given to the fact that the terms of the licence granted to the operator demands that strict coverage qualities are met and in this context the

question of need for additional coverage is therefore not contested. Also in accordance with the Advisory Guidance whether this gap in coverage results in a need for an

additional base station has been considered and the LPA accepts from the submitted information that there are no existing masts or a combination of existing masts available for sharing. Therefore the next best option would be the siting of a mast on an existing building. In line with the operator's code of conduct which reflects guidance in the Council's document, the applicant has identified and provided evidence of approaches made in respect of ten alternative sites but for a variety of reasons none of the site owners was willing to permit a new mast on the premises. Whilst this application does not relate to a mast on a building it would be sited immediately alongside the Dixon Engineering building and although it is free standing it is well related to the existing building. As to its height, the applicants have responded to the question of whether there is a need for a 20m mast and have conceded that an 18m mast would provide adequate coverage. Amended plans have been submitted.

Site Acceptability

This site is well within an established industrial estate where there are a number of tall buildings, including the Dixon Engineering building. The cabinets are not contentious as they would be relatively small and it is considered that a mast would not be out of character in this locality. Furthermore, screening of a significant part of the estate will eventually be afforded along William Nadine Way when landscaping that is, as yet relatively young, comes to maturity. From the west the mast would be partially screened by existing planting, albeit that some is within the adjacent site. From the east the Dixon Engineering building screens 11m of its 18m height. The closest residential properties are some 180m from the application site and comment has been made about the impact of the mast on the skyline. The applicant has reduced the height of the mast by 2m from the original planned height of 20m and it is considered that as the land falls from Hearthcote Road and the application site is significantly lower than the residential properties, in the context of the mast being seen within the existing industrial buildings, the structure would be unlikely to be unduly dominant. However, in line with the Council's guidance, consideration has been given to the provision of additional landscaping to afford better screening but it is considered that the limited area within the application site that may be available for landscaping is insufficient to provide any effective screening. Furthermore the proposed mast would conform to advice from By Design that states at paragraph 148 that masts seen against the skyline are best left galvanised.

Other matters

The Council's document is clear about health matters. It cites advice from PPG8 and states that it is for the decision maker (usually the local planning authority) to determine what weight to attach to such considerations in any particular case. However, Paragraph 98 of the Appendix - Supporting Guidance to PPG 8 deals with this and states that it is the Government's firm view that the planning system is not the place for determining health safeguards. In the Government's view, if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to consider further the health aspect and concerns about them.

Conclusion

The applicant has demonstrated compliance with the Council's Advisory Guidance and has proved need. The site search has not revealed any more preferable location. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawings numbered 1131/229/001 A, 1131/229/002 A, 1131/229/003 A and 1131/229/004 A.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. In the event that the mast is no longer required for purposes of providing a telecommunications service, it shall be removed and the site restored to match the immediately adjacent land or otherwise as agreed in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the area.

29/08/2006

Item 1.2**Reg. No.** 9/2006/0786/M**Applicant:**

Victory Homes Ltd
Quarterbridge, Horses Lane
Measham
Swadlincote
Derbyshire
DE12 7LL

Agent:

DCI Architecture Ltd
27 Trinity Close
Ashby-De-La-Zouch
Leicestershire
LE65 2UR

Proposal: The erection of 14 apartments at Land To The Rear Of
34 36 Stanhope Road Swadlincote

Ward: Swadlincote

Valid Date: 28/06/2006

Reason for committee determination

This proposal is brought before this committee because it is a major application that has a recommendation for permission and there have been more than two objections.

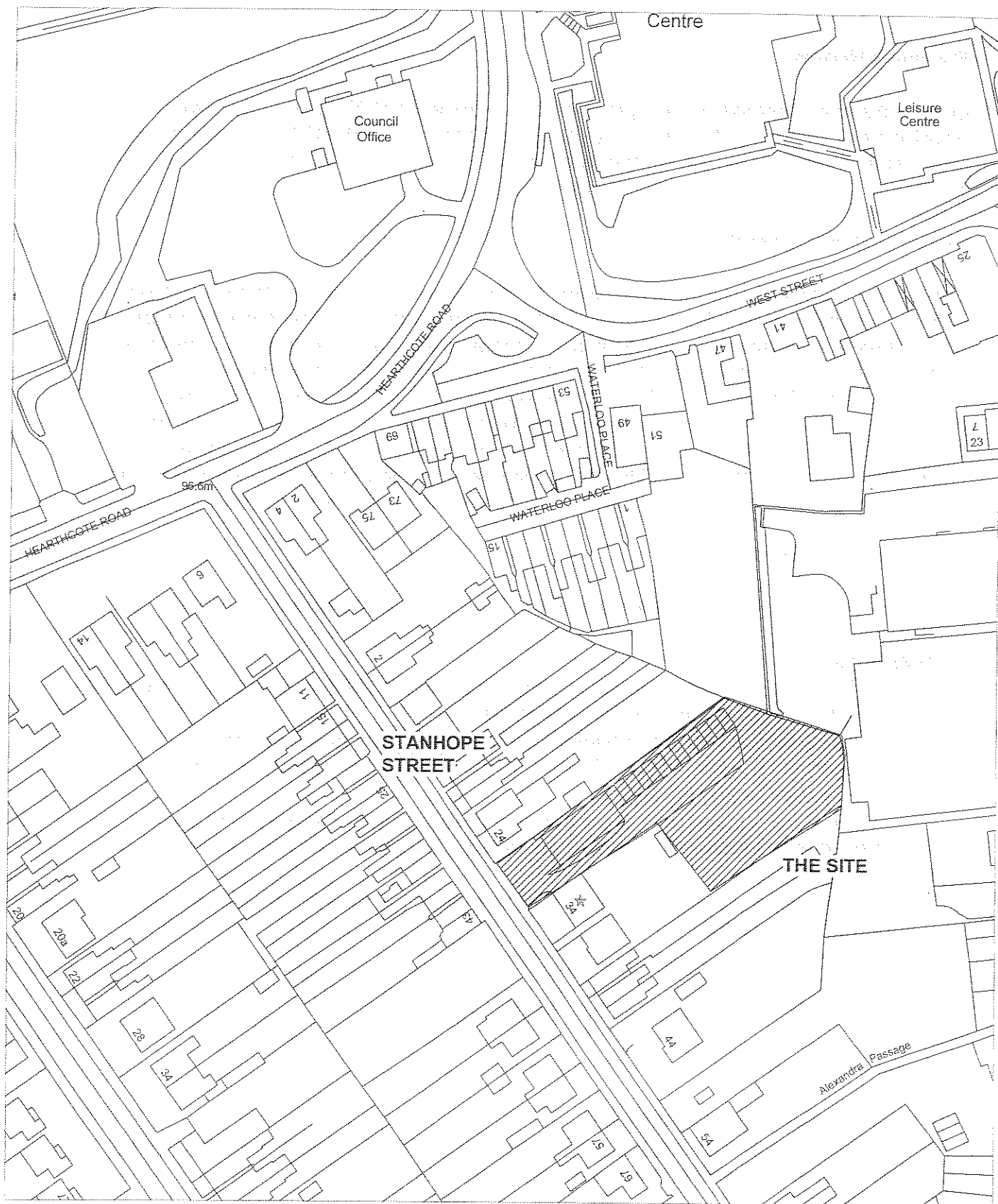
Site Description

The site comprises an irregular shaped vacant parcel of land. It was last used commercially but has recently been cleared of all structures and is enclosed by walls and fences. Existing residential properties lie to all sides save for along the north eastern boundary where there is a supermarket adjoining the site.

Topographically the site slopes generally to the north east with a low point at the most northerly part.

Proposal

It is proposed to construct a driveway between the existing dwellings fronting Stanhope Road and to erect 14 apartments towards the back of the site. The building would be 'v' shaped and would be part two and part three storey comprising six flats on the ground floor, six flats on the first floor and two flats on the second floor. The three storey element is proposed on the lowest part of the site and the two second floor apartments are to be provided within the roofspace. Ten of the flats would be two bedroom and four would be one bedroom. There would be 22 car parking spaces.



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

9/2006/0786/M Land to the rear of 34-36 Stanhope Road
Swadlincote

Date Plotted 17/8/2006

NORTH ↑

Plot centred at 429683 319467 Scale 1:1250

Crown Copyright. All rights reserved.
South Derbyshire District Council
OS Licence No. LA 100019461. 2006

Planning History

Outline planning permission was granted under reference 9/2003/0906 for residential development. In May of this year a detailed application (9/2006/0225) was submitted for 15 apartments but this was withdrawn because there was a shortfall in the Council's guidelines for minimum distances of separation.

Responses to Consultations

The County Highways Authority and Severn Trent have no objections to the proposal subject to conditions and the Pollution Control Officer comments that a site investigation is not required in respect of the potential for contaminated land. Insofar as contributions under a Section 106 agreement are concerned the County Education Authority seeks £18,462 and the Primary Care Trust has asked for £444 per dwelling. Using the Council's current SPG for play provision the site will generate 24 persons. At a rate of 8 sq m per person for children and a further 16 sq m per person for youth there will therefore be a requirement for 576 sq m of play space. No provision is made within the site. It is therefore appropriate to request £1000 per dwelling toward off site provision.

Responses to Publicity

Nine letters of objection have been received. They raise the following concerns:

Highways issues

- Insufficient on site car parking has been provided to meet the needs of occupants of 14 flats, most of whom will have two cars.
- Stanhope Road is already congested with parked cars making access by emergency vehicles difficult. This situation has become exaggerated by a recent development in the locality
- An additional access onto Stanhope Road would cause dangers to highway safety due to inadequate visibility and access should be onto Alexandra Road

Character of the area

- The three storey building is out of character with the locality and Swadlincote's architectural heritage
- 14 dwellings is overdevelopment of the site
- Loss of open space
- Loss of tree that is protected by a preservation order

Amenity

- Loss of privacy
- Overshadowing
- No amenity space for residents
- Noise nuisance from additional traffic entering the site in close proximity to the windows of an existing dwelling and during construction

Infrastructure

- Site contours will result in the development being unable to connect to the sewer and existing storm water drains are at capacity

Other matters

- Part of the site is not within the applicant's ownership
- Inaccuracies in application form

Development Plan Policies

The relevant policies are:

RSS8: Policies 2 and 20

Joint Structure Plan: Housing Policy 3 and Transport Policy 4

Local Plan: Housing Policy 4 and Transport Policy 6

Planning Considerations

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

- The character of the locality
- The design of the proposal
- Amenity of occupants of nearby dwellings
- Highway safety

Planning Assessment

This is a brownfield site within a predominantly residential locality and there is therefore no objection to the principle of development. Indeed an outline permission for residential development was granted in 2003. The character of the area comprises mostly two storey dwellings many of which are older properties with a higher ridgeline than some more modern dwellings and at least two existing dwellings that adjoin the site have rooms within the roofspace. This arrangement would be repeated in the proposal as the two second floor flats are to be within the roofspace.

The building would have a maximum height of 10m and is designed and positioned so that the highest part of the building would be on the lowest part of the site to minimise its impact.

The building would be 'v' shaped and would have an acceptable design. For the most part the layout provides for bedrooms around the outside and living rooms would be inward facing across the courtyard and entrance. The principal inward facing windows in the new building would be off-set to maximise privacy within the site.

The Council's guidelines for minimum distances of separation state that:

The Council is committed to the intensive re-use of both previously developed land and to the development of green field site, where it is deemed necessary to achieve the aims of the Development Plan. In view of this the Council no longer intends to rely on restrictive guidance on the space about and between dwellings within new housing schemes.

Within the scheme there are no direct window to window shortfalls. There are, however, shortfalls in respect of two flats where the angle of protection in respect of overbearance for windows serving principle rooms is reduced from 90° to 88° and for two further flats from 90° to 83°. In addition two flats have an angle of protection of 56°. All of these windows have a south westerly aspect and therefore it is considered that the living conditions for occupants of these flats would not be unduly affected.

Insofar as the Council's guidance for the protection of amenity of occupants of adjoining dwellings is concerned, the two windows in the new building that have a direct back to back relationship with existing dwellings on Stanhope Road will exceed the minimum distances for separation. There is one further existing dwelling that has a rear garden that exceeds 50m in length facing the application site and in accordance with the Council's guidelines windows in the new building facing this property are a minimum of 5m from the boundary. Furthermore there is significant planting within the adjoining neighbour's control and it is considered that this relationship is acceptable.

In terms of density the site area is 0.2 ha and the proposal would equate to 70 dwellings per hectare which is similar to the density of Waterloo Place to the rear of the site which has 17 dwellings on around 0.23 ha and is equal to 74 dwellings per hectare.

There is a large tree on the site close to the northern boundary with the supermarket. Upon receipt of application 9/2006/0225 a tree preservation order was placed on it in order to have the opportunity to evaluate its value. At that time the tree was not in leaf and access to the site was restricted. Close inspection was not able to take place. Access has now been obtained and it is apparent that the tree has a number of dead branches and a large cavity about 1.8m from its base. The trunk is rotting and the tree has a restricted life. Therefore it is acceptable for the tree to be felled and another tree planted. In addition there will be the usual landscaping requirements.

Lastly there are matters of highway safety. The County Highways Authority is satisfied, subject to a number of conditions, that access to the site is satisfactory and that the number of car parking spaces is satisfactory.

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 committee delegate authority to the Head of Planning to deal with any further comments received in the consultation period ending on 6 September 2006;
- B Subject to A and the signing of a Unilateral Agreement under Section 106 of the Town and Country Planning Act in respect of contributions for Health, Education and Open Space provision **GRANT** permission subject to the following conditions:
 - 1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
 - 2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used

in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.

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

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

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

4. Prior to any other works commencing, the access shall be modified in accordance with the following requirements:
 - a) The access shall have a minimum width of 4.1m, be paved in a solid, bound material for the first 10m into the site from the highway boundary and provided with measures to prevent surface water flowing from within the site onto the footway.
 - b) The access shall be constructed as a splayed vehicular crossover, not with radii as shown on the submitted plan.
 - c) The access shall be provided with 2m x 2m x 45° pedestrian intervisibility splays and 2.4m x maximum achievable visibility sightlines, the area forward of which shall be maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm for vegetation) relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

5. Prior to the occupation of any of the dwellings hereby approved twenty-two car parking spaces shall be provided within the site curtilage, each space shall measure at least 2.4m x 4.8m with a minimum of 6m behind for manoeuvring, the car parking spaces shall be maintained in perpetuity free of any impediment to their designated use.

Reason: To ensure that adequate parking provision is available.

6. Prior to the occupation of the first dwelling hereby approved, the access road and manoeuvring area shall be laid out in accordance with the submitted drawing and maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

7. Any gates shall be set back at least 10m from the highway boundary.

Reason: In the interests of highway safety.

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

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

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

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

10. A replacement tree for the protected Ash of a species and in a position to be first agreed with the Local Planning Authority shall be planted in the first planting season (November to March) following the commencement of development or such alternative timescale as agreed in writing with the local planning authority.

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

11. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

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

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

13. Prior to occupation of any of the dwellings hereby permitted, the bin stores shall be constructed as shown on the approved plan.

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

14. Notwithstanding the submitted plans there shall be no fascia boards. Large scale drawings to a minimum Scale of 1:10 of eaves and verges and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves and verges and cills and lintels shall be constructed in accordance with the approved drawings.

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

Informatives:

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

Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at www.coal.gov.uk.

A copy of the Crime Reduction Officer's comments are attached for your information. Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

29/08/2006

Item 2.1**Reg. No.** 9/2006/0692/O

Applicant:
Mr I C Reed
74 Westfield Road
Swadlincote
Derbyshire
DE11 0BG

Agent:
Mr I C Reed
74 Westfield Road
Swadlincote
Derbyshire
DE11 0BG

Proposal: Outline application (all matters to be reserved) for the erection of a residential development at Land To The Rear Of 71 Bernard Street Woodville Swadlincote

Ward: Woodville

Valid Date: 07/06/2006

Reason for committee determination

This application is brought before this committee because the applicant is related to an officer of the Council

Site Description

The application site is within an area that is wholly residential being characterised by two storey dwellings. It lies in a backland position to the rear of houses fronting Bernard Street and those on Swadlincote Lane.

The site is enclosed by walls and is approached via a long narrow driveway between the two frontage properties numbers 71 and 73 Bernard Street. The driveway is separated from number 73 by a wall/fence but is open with the garden to number 71.

The site appears in the past to be used for garaging/workshops in association with number 71. Some of the buildings remain, albeit in a poor state of repair.

Proposal

It is proposed to develop the site for residential purposes. As this is an outline application with all matters reserved for subsequent approval there is no additional information.

Planning History

There is no previous planning history on the site.

9/2006/0692/O Land to the rear of 71 Bernard Street
Woodville



SOUTH DERBYSHIRE
DISTRICT COUNCIL
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE DE11 0AH

Crown Copyright. All rights reserved.
South Derbyshire District Council
OS Licence No. LA 100019461, 2006

Date Plotted 17/8/2006
Scale 1:1500

Licence No LA 079375



Responses to Consultations

Severn Trent Water has no objection subject to condition and Pollution Control has commented that no site investigation is required.

The County Highways Authority has recommended refusal.

Responses to publicity

Three letters of objection have been received. They raise objections that are summarised as follows:

- Lack of car parking space on Bernard Street
- Highway safety is compromised by poor access and lack of manoeuvring space
- Overdevelopment
- Loss of privacy
- Over bearing
- Trees should be retained
- Nuisance from noise and disturbance during construction

Development Plan Policies

The relevant policies are:

RSS8: Policies 2 & 20

Joint Structure Plan Housing Policy 3 & Transport Policy 4

Local Plan Housing Policy 4 & Transport Policy 6

Planning Considerations

The main issues central to the determination of this application are character of the locality, amenity of occupants of adjoining dwellings and highway safety:

Planning Assessment

This is a brownfield site within a residential area that is characterised by two storey dwellings. For the most part the locality is conventionally laid out with dwellings fronting a highway and having front and rear gardens. However, a small development of two storey dwellings is under construction close-by in a courtyard arrangement taking access from Swadlincote Road.

Unlike the adjacent development the application site is a very constrained plot which, from the submitted plan, measures some 27m x 7m the development of which would cut across the grain of the development pattern for the area. It is difficult to envisage how it could accommodate even a single dwelling together with amenity space, parking and turning facilities whilst at the same time not compromising privacy for occupants of dwellings nearby. Since the County Highways Authority has recommend refusal, the applicant has not been asked to provide a survey drawing or to demonstrate that sufficient space exists.

As to the question of highway safety, the site is served by a driveway which is almost 40m long and three metres wide. It runs immediately adjacent to the side wall of the

existing dwelling and a side door and gate to that property open directly onto it. At the point where it emerges onto Bernard Street visibility is severely restricted and the County Highways Authority has recommended refusal because of the detriment to highway safety.

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. Transport Policy 6 of the adopted South Derbyshire Local Plan and Transport Policy 4 of the Derby and Derbyshire Joint Structure Plan require new development to be provided with safe and convenient access. The proposed development, if permitted, would lead to the increase in use of a substandard access to Bernard Street where driver and pedestrian visibility is severely substandard. The proposal would thus be contrary to policy and to the best interests of highway safety.
2. It has not been sufficiently demonstrated that it is possible to accommodate a dwelling on the site without causing serious detriment to the amenities of the occupiers of neighbouring dwellings contrary to Housing Policy 11 of the Adopted Local Plan.

29/08/2006

Item 2.2**Reg. No.** 9/2006/0730/M**Applicant:**

John Bowler Transport Ltd
Ivy Court
Etwall
Derby
DE65 6JG

Agent:

Dykes Associates Limited
Cliff House
13 Cliff Road
Nottingham
NG1 1GT

Proposal: The demolition of three existing dwellings and the erection of a three storey office block and a three storey block of flats with associated parking, landscaping and road access at 130 134 Derby Road Hilton Derby

Ward: Hilton

Valid Date: 14/06/2006

Reason for committee determination

The application has been referred to Committee at the request of Councillor Mrs Walton as local concern has been expressed about a particular issue.

Site Description

The site comprises the grounds of three detached dwellings, one bungalow and two houses). Each is set well back from the highway and the frontages are well treed. There is a substantial horse chestnut tree on the west boundary that has had a tree preservation order placed on it following the submission of the application. The land to the rear of the dwellings is also well treed but these trees are not considered to be of a wider public amenity value. There are numerous fruit trees amongst this group.

The site also adjoins the houses developed on what was previously known as Hilton Common. The site is separated from these dwellings by a 1.8 metre high close-boarded fence. The houses to the south have their rear elevation looking towards the site. Whilst the view of the site is obscured at the present time, it would be opened up if the application were granted planning permission. The boundary to the houses to the west is verdant and includes the horse chestnut tree. These dwellings have their rear elevation facing the application site. The east boundary is also well screened but the house on this plot has its main aspect looking to the south and the screening vegetation is on the neighbour's side of the fence.



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

9/2006/0730/M 130-134 Derby Road
Hilton

Crown Copyright. All rights reserved.
South Derbyshire District Council
OS Licence No. LA 100019461. 2006

Date Plotted 17/8/2006

NORTH ↑

Plot centred at 425268 330997 Scale 1:2500

Proposal

The proposal involves the demolition of the existing dwellings and their replacement but two, two and a half storey buildings of the same design, one accommodating flats the other offices. Since submission the application has been amended so that the office block would be set towards the rear of the site and the flats at the front would be at right angles to the road. Previously both buildings would have been parallel to the road.

The application also proposes a single point of access to the site at the east end of the application site. The applicants contend that the new access meets the requirements of the County Highway Authority for the type of development proposed.

Applicants' supporting information

Prior to the application being amended, correspondence about the level of car parking required has been exchanged, see the County Highway Authority comments below. The applicants contend that the space proposed meets the requirements for parking spaces set out in PPG 13. Thus the 39 car parking spaces proposed are adequate to meet the needs of the site.

In support of the application as amended the applicants state:

- a) *It is the applicants' view that, contrary to objections raised, the building design and scale are both appropriate for the setting, given the wish for this to be a "gateway" development to the Village. In terms of scale and massing, it has a significant less of an impact than the developments entering the Village from the Uttoxeter direction. Indeed, these developments were held out to us as examples of acceptable current design.*
- b) It is argued that there is no significant reduction in privacy, given that the proposals meet with your Authority's guidelines in respect of overlooking and are, in fact, in excess of the distances between facing buildings across Pegasus Way itself. In this respect, the applicant's cannot see this as a defensible argument or objection against our proposals.
- c) *There has been a comment passed in relation to an increase of traffic and road noise. How this is likely to affect anybody other than those on this site is difficult to argue, given that the new development would tend to 'shield' premises along Pegasus Way from such disturbances. It is accepted that we are proposing possible overspill parking to the rear of our site, but the number of car parking space required has been determined by your Authority.*
- d) Should occupiers to the rear of the site on Pegasus Way be concerned about the impact of car headlights during hours of darkness, it will, of course, be clear that this is one reason why it is proposed to locate the office building to rear rather than the flats. Clearly, the office building will be occupied during normal business hours, with only occasional irregular need for access out of these hours.
- e) In addition, it is the Applicant's proposal to plant saplings along the southern boundary, a feature which is intended to not only eliminate the impact of noise and disturbance, but also to provide an added degree of privacy to both sides.

- f) The issue of potential impact of noise and road use on occupiers of the proposed development are no different to that experienced by other occupiers of premises throughout Hilton, where their frontages are even closer to the main road.
- g) The objection in relation to disturbance to wildlife and habitat is, without a formal study, a matter for conjecture. We do not believe that it is a matter that should contribute towards a recommendation for a 'Refusal', however, we can understand if a Condition is imposed to ensure that the Wildlife and Countryside Act requirements are complied with.
- h) In relation to the loss of "visual amenity" by the removal of saplings, bushes and other undergrowth on the site, this is seen as only being an improvement to the area arising from appropriate husbandry of the natural resources. The applicants' are not convinced that this should be appropriate ground for a refusal, given that current standards are looking to increase the capacity of sites such as these within already defined urban environments in order to avoid the need to build such properties on otherwise green field sites.
- i) It has to be acknowledged that if policies designed to make good use of brownfield and infill sites within existing urban environments is to be appropriately followed, then proposals such as this will, inevitably, require the removal of short lived and unimportant domestic scale landscaping.
- j) Our proposals to 'add-in' additional landscaping to the perimeters will, by and large, compensate for any loss of immediate visual amenity.
- k) The Applicants' most compelling arguments in favour of this application are well known to your Authority and arise from the significant growth in their business, which is bringing prosperity and employment to the area. This is one of the few sites available to them and being within their own ownership and control, is ideal to meet their long-term plans. It is clear that if the objections raised are regarded by your Planning Authority as overriding the importance of the residential needs and employment and prosperity opportunities that are being generated by John Bowler Enterprises, they will need to contain particularly compelling arguments in relation to your Authority's policies where they relate to providing, developing and generating such uses in your area.

Planning History

In 2004 planning permission was granted for the change of use of 132 Derby Road for office use to John Bowler Transport.

Responses to Consultations

Hilton Parish Council objects on the grounds of

- a) Increased vehicle movements in an area where the speed limit is 40mph; numerous students going to and from John Port School use this length of pavement and the visibility towards the A50 Island is poor.
- b) The impact on the visual amenity to existing properties.

- c) It is considered inappropriate development in this area of the village where all the buildings are low rise
- d) There will be the loss of mature trees and disturbance to the habitats of what are believed to be protected species.

Councillor Mrs Littlejohn has indicated that she fully endorses the views of the Parish Council and supports its objection.

The County Highway Authority has and remains concerned that there is inadequate parking space within the development and that this could result in parking in the highway that would be a danger to other road users. The County Highway Authority therefore requires parking provision to full standards. This would equate to 47 spaces rather than the 39 spaces proposed. The applicants have sought to address this issue and the County Highway Authority considers that refusal on the grounds of inadequate parking provision would be difficult to sustain at appeal. Conditions are recommended to secure the provision of the access before the main building works commence, retaining parking and manoeuvring areas and ensuring that the whole parking provision is available to both uses. It is also noted that this length of highway is subject to a widening order that can be removed for the payment of the appropriate administration charge.

The Environment Agency has no objection in principle and requires conditions to be appended to the decision in the event that planning permission was granted.

Severn Trent Water has no objection subject to the imposition of a condition requiring the submission of foul and surface water drainage.

Derbyshire Education Authority seeks a contribution totalling £23,336 towards the provision of education arising from the development. (£9231 for primary education provision and £14105 for secondary education provision).

The Derbyshire Dales and South Derbyshire PCT seeks a contribution of £444 per dwelling towards local health provision (£5328).

The Environmental Protection Manager advises that a noise survey should be provided to assess what noise mitigation measures that may be required. The usual condition regarding the need to assess for the presence of contaminants is recommended.

The Head of Housing has no comments

Responses to Publicity

A total of 16 letters of objection from 15 households have been received objecting to the development of this site for the following reasons: -

- a) The development would take place in an area of traditional houses and bungalows and this development would be more appropriate on the brown field site on Hilton Depot. The design and appearance of the buildings are not in character with the surroundings; the buildings are totally out of character with the locality. Contrary to the applicant's assertions the application would not provide

a 'gateway development' or a sense of stature, this is a residential area that does not need three storey buildings. The existing buildings are sound and contribute to the charm and character of the village. The proposed buildings would create an eyesore at the entrance of the village. There has been too much development in the village over the last decade and the local amenities such as shops and other facilities have not expanded to cope with the additional population. The needs of existing residents should be catered for before the village is allowed to grow any more. The large parking area will encourage youth to congregate and could result in anti social behaviour.

- b) There would be a significant loss of privacy to adjoining dwellings from the accommodation in the roofs as well as a reduction in daylight and sunlight thus reducing the quality of life for the occupiers of the adjoining houses.
- c) Road and other noise would be increased on the already congested road to the A 50. The increased amounts of traffic would reduce highway safety where the need for traffic calming has been acknowledged by the Council through the introduction of traffic calming measures in the village. The parking areas would also cause noise and disturbance to existing residents. The size of the buildings is such that traffic noise would be reflected on to adjacent dwellings. The proposed access position is dangerous and could result in the area becoming an accident black spot. Parking will also occur on local roads
- d) There are bats and other wildlife that nest in the immediate area and the loss of trees and buildings would have an impact on the wildlife.
- e) The development would be better located on the business park where there is space and buildings available for office use.
- f) There are health and safety issues as the children in the locality may not understand the dangers associated with building sites especially during the demolition.
- g) Numerous trees and shrubs would be lost, without the trees noise would increase and air quality decrease.
- h) The application may lead to further development of the field adjacent to the application site resulting in even greater hazards.
- i) There would be a loss in the value of adjacent properties.

Development Plan Policies

The relevant policies are:

RSS8:

Joint Structure Plan: Housing Policy 5, Economy Policy 5

Local Plan: Housing Policy 5 and Employment Policy 4

Planning Considerations

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

- The Development Plan
- The scale and massing of the development and its relationship to adjacent dwellings
- The access and parking arrangements

Planning Assessment

The Development Plan makes provision for employment uses to occur in residential areas as a means of promoting the rural economy. However, the policies have the caveat that the development should be in keeping with the character of the area and that there should be no loss of amenity for the area.

The scale and massing of the development are such that the development would appear very much as an alien feature in this semi rural part of the village. The mass of the buildings is significantly greater than anything else in the locality and whilst window distances may comply with the Council's adopted standards, the mass would be very apparent and out of character with the surroundings and as such the development is contrary to the above policies.

The County Highway Authority is concerned that the amount of parking proposed in the application is not sufficient to a point where parking on adjacent highways could be avoided. However the difference between the maximum parking standards advocated in RSS 8 and the standard advocated by the County Highway Authority is minimal given that the two uses are likely to want to use the accommodation at different times of day. An objection on these grounds would be difficult to sustain at appeal. The new access from Derby Road is acceptable to the County Highway Authority subject to conditions.

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

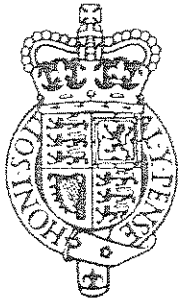
REFUSE planning permission for the following reasons:

1. Housing Policy 5 and Economy Policy 5 of the Derby & Derbyshire Joint Structure Plan and Housing Policy 5 and Employment Policy 4 of the adopted South Derbyshire Local Plan make provision for housing development in villages provided it is of a scale and character in keeping with the surrounding area and does not cause injury to local amenities or to the environment. The area surrounding the site is characterised by detached and semi-detached dwellings and the introduction of two large blocks of building, one of which would be used for office purposes, of the scale and mass proposed would be out of keeping with the surroundings. The proposal would therefore not be in keeping with the character and scale of the settlement and would adversely affect the amenities of the occupiers of the adjacent dwellings and would be contrary to the above policies.

2. PLANNING AND OTHER APPEALS

Reference	Place	Ward	Result	Committee/Delegated
9/2005/1220	Hilton	Hilton	Dismissed	Delegated
9/2005/0967	Shardlow	Aston	Dismissed	Delegated
9/2005/0896	Newton Solney	Repton	Dismissed	Delegated
9/2004/1640	Coton in the Elms	Linton	Allowed	Committee*

* Agenda report recommended refusal which was agreed by the Committee



Appeal Decision

Site visit made on 9 May 2006

by **Jeremy Youle** BA (Hons) MA TRP MRTPI

an Inspector appointed by the Secretary of State for
Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date: 3 July 2006

Appeal Ref: APP/F1040/A/06/2008281

6 Farm Close, Hilton, Derbyshire, DE65 5JZ

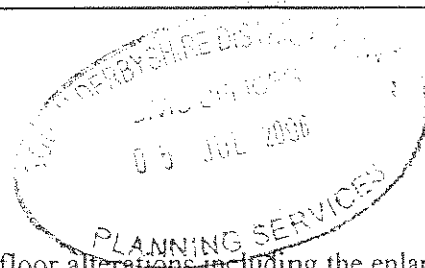
- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs J Waltho against the decision of South Derbyshire District Council.
- The application Ref 9/2005/1220/FH, dated 14 October 2005, was refused by notice dated 8 December 2005.
- The development proposed is ground and first floor alterations and extensions including enlarged entrance hallway and first floor bedroom above existing garage.

Decision

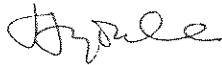
1. I dismiss the appeal.

Reasons

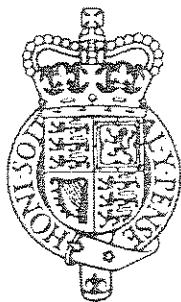
2. The Council have raised no objections to the ground floor alterations including the enlarged hallway and I agree with that view. Consequently, the main issue is the effect that the first floor front extension over the existing garage would have on the living conditions of the occupants of No 4 Farm Close.
3. The first floor bedroom window in the front elevation of the proposed extension would allow direct views down into the ground floor windows in the rear elevation of No 4 at a distance of around 20 metres. These windows serve a main habitable room. Overlooking at this distance would result in both a real and perceived loss of privacy to the occupants of No 4, causing harm to their living conditions. The proposal is therefore contrary to Housing Policy 13 of the South Derbyshire Local Plan, adopted in May 1998, which seeks to ensure that extensions are not detrimental to the amenities of adjoining properties.
4. The proposal also fails to conform to the detailed guidance on minimum distances between extensions and neighbouring dwellings in the document entitled *Extending Your Home* Supplementary Planning Guidance (SPG). It has been subject to consultation and has otherwise been prepared in accordance with relevant national advice and for those reasons I attach it substantial weight. The appellants have argued that the intervening distance is only slightly less than the required 21 metres. However, the SPG makes it clear that the specified intervening distances are intended to be the minimum needed to achieve satisfactory levels of privacy.



5. My attention has been drawn to first floor extensions at Nos 8 and 10 Farm Close. The appellants have argued that these have been approved by the Council, even though the intervening distances with the windows in the side elevation of 9 Farm Close are less than would be required by the SPG. It is suggested that this sets a precedent. However, the SPG states that guidelines on distances will not be applied to side windows which makes these cases materially different to the appeal proposal. Furthermore, I have little information regarding the circumstances involved so can attach little weight to these cases as material considerations. Therefore, I have considered the appeal on its own merits.
6. The appellants have argued that if the proposed bedroom were to be used for a different purpose it might, according to the SPG, require a lesser intervening distance. However, the room is shown as a bedroom with en suite bathroom in the proposed plans and I must deal with the scheme as presented. For these reasons I consider it likely that it would be used for this purpose at some stage.
7. The appellants have also argued that the proposal would retain the existing footprint of the building with a traditional gable design which reflects local character including that of neighbouring houses, and that to achieve a greater intervening distance would result in a less satisfactory design. However, I do not consider these matters outweigh the harm that would be caused to the living conditions of the occupant of No 4. Accordingly, I dismiss the appeal.



INSPECTOR



Appeal Decision

Site visit made on 07 June 2006

by Karen L Ridge LLB (Hons)

an Inspector appointed by the Secretary of State for
Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date: 13 July 2006

Appeal Ref: APP/F1040/A/06/2009037

Land at Aston Lane, Shardlow, DE72 2GX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Jordant Construction Limited against the decision of South Derbyshire District Council.
- The application Ref 9/2005/0967/O, dated 11 August 2005, was refused by notice dated 27 September 2005.
- The development proposed is an outline application to erect two houses.

Summary of Decision: The appeal is dismissed.

Procedural Matter

1. The planning application that led to this appeal was for outline planning permission. All matters (siting, access, design, external appearance and landscaping) were reserved for later decisions. In so far as the appeal deals with these reserved matters I shall treat these details as being no more than illustrative of what is proposed.

Main Issues

2. I consider that there are two main issues in this case, namely
 - (i) whether the proposal is in accordance with local and national policy in relation to sustainable development patterns, and
 - (ii) the effect of the proposal on the character and appearance of the surrounding area.

Planning Policy

3. The development plan includes the Derby and Derbyshire Joint Structure Plan (JSP) adopted in 2001 and the South Derbyshire Local Plan (LP) adopted in 1998. JSP General Development Strategy Policy 1 advocates sustainable development and Policy 4 sets out circumstances in which development away from settlements will be acceptable. JSP Housing Policy 6 states that new housing development away from settlements will only be permitted where it is necessary for the operation of a rural based activity. Environment Policy 1 of the LP reiterates that development in the countryside will only be permitted for rural based activities or where it is unavoidable and LP Housing Policy 8 similarly sets out limited circumstances in which housing development in the countryside will be permitted.
4. The emerging Local Plan had reached an advanced stage on its path to eventual adoption, following a public inquiry and subsequent modifications. It was however withdrawn after a challenge was filed in the High Court and in the circumstances I accord it little weight.

Reasons

Whether the proposal accords with local and national policy in relation to development patterns

5. The appeal site is situated in open countryside on the south side of a part of Aston Lane which is a cul-de-sac. The site is located a short distance from the small settlement of Shardlow and some 400 metres from a bus stop for a local bus service. The site is a greenfield site and whilst there are signs of a hard surface and some unauthorised tipping and I do not consider development of the site can be justified by the appellants desire to reduce fly tipping. The appellants have not advanced any arguments to suggest that the dwellings would be required for the operation of a rural-based activity or there is any other compelling reason for the development in this location. In the circumstances the proposal fails to satisfy the criteria in JSP Housing Policy 6 and LP Environment Policy 1 and Housing Policy 8.
6. The site is in a countryside location with limited transport links and few local facilities and I consider it probable that any occupiers would be largely reliant on private transport. Development in this location would run contrary to the policy objectives in *Planning Policy Statement 7: Sustainable Development in Rural Area* which seeks to protect the countryside and focus new development in or near to local service centres.

The effect of the proposal on the character and appearance of the surrounding area

7. There are scattered dwellings, other buildings and a farmstead on the same side of Aston Lane as the appeal site, with farmland to the north and south. I do not accept that the proposal would represent infill development since the dwellings are few and loosely grouped. The new dwellings would represent a further incursion into the countryside and would be detrimental to the character and appearance of the surrounding area. Whilst the land may currently be in a neglected state the proposal would not represent an improvement to the natural environment and it would therefore be contrary to JSP General Development Strategy Policy 1.

Conclusions

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

Formal Decision

9. I dismiss the appeal.



INSPECTOR



Appeal Decision

Site visit made on 20 July 2006

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State for
Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date: 26 July 2006

Appeal Ref: APP/F1040/A/06/2011774

Land at Church Lane, Newton Solney DE15 0SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr H Hiatt against the decision of South Derbyshire District Council.
- The application ref.9/2005/0896/O, dated 26 July 2005, was refused by notice dated 23 September 2005.
- The development is a proposed detached bungalow.

Summary of Decision: The appeal is dismissed.

Procedural Matters

- 1: The originating application was made in outline with all matters reserved for future determination.

Main Issue

- 2: This is, having regard to the approach of the development plan to housing in the settlement, and other material considerations, the effect of the proposal on the Newton Solney Conservation Area and the settings of Beehive Cottage (listed Grade II) and the Church of St Mary the Virgin (listed Grade II*).

Planning Policy

- 3: The development plan includes the Derby and Derbyshire Structure Plan, adopted in January 2001 and the South Derbyshire Local Plan of May 1998.
- 4: Structure Plan Housing Policy 5 restricts housing in villages to that which can be accommodated within the confines of the village as defined in Local Plans, providing that such development is in keeping with the scale and character of the village and does not involve the loss of valuable open space. Local Plan Housing Policy 5 limits new housing to the confines of Newton Solney as defined on the Proposals Map and requires it to be in keeping with the scale and character of the settlement.
- 5: Structure Plan Environment Policy 9 notes that planning permission will not be granted for development that would be detrimental to the character or appearance of a conservation area. Local Plan Environment Policy 12 follows much the same path. Structure Plan Environment Policy 10 and Local Plan Environment Policy 13, amongst other things, seek to protect the setting of listed buildings. This approach complies with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and advice in Planning Policy Guidance Note 15 – *Planning and the Historic Environment* (PPG15).



Reasons

6. The appeal site lies outside the confines of Newton Solney defined on the Local Plan Proposals Map. In simple terms the erection of a dwelling upon it would be contrary to Structure Plan Housing Policy 5 and Local Plan Housing Policy 5.
7. The main thrust of the appellant's case is that given the permission that has recently been granted for the development of an access off Church Lane and parking area for the nearby school, to the immediate west of the appeal site, there has been a change of circumstances, and the proposed dwelling would appear as part of a developed frontage to Church Lane. This, it is suggested, justifies a departure from the approach of the development plan to housing in the settlement.
8. However, like the Inspector who dealt with a previous appeal on the site (T/APP/F1040/A/84/023246/P9), I believe that the open space between the development along the Main Street frontage and the Church is an important constituent of the character and appearance of the conservation area and the setting of the Church of St Mary the Virgin. The sense of separation is also an important part of the setting of Beehive Cottage.
9. Far from justifying the proposal, it seems to me that the permission granted for the parking area and access off Church Lane makes it all the more important, for the sake of the character and appearance of the conservation area, and the setting of listed buildings, that the open spaces either side of that site are preserved in that state. The development of even a modest dwelling on the appeal site would establish a frontage on Church Lane that, in my view, would harm the character and appearance of the conservation area and the settings of the listed buildings concerned. On this basis, the proposal would be contrary to Structure Plan Environment Policies 9 and 10 and Local Plan Environment Policies 12 and 13. Accordingly, there is no justification for a departure from Structure Plan Housing Policy 5 or Local Plan Housing Policy 5.

Conclusions

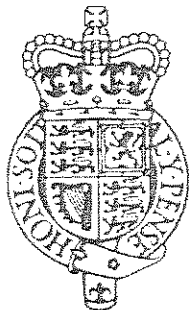
10. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

11. I dismiss the appeal.

Paul Griffiths

INSPECTOR



Appeal Decision

Hearing held on 19 July 2006

Site visit made on 19 July 2006

by **Philip Major** BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for
Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date: 28 July 2006

Appeal Ref: APP/F1040/A/06/2005693

The Caravan Site, Crafty Flats Lane, Coton in the Elms, Swadlincote, Derbyshire.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr G T Boulton against the decision of South Derbyshire District Council.
- The application Ref: 9/2004/1640/U, dated 17 December 2004, was refused by notice dated 23 June 2005.
- The development proposed is to increase the number of caravans allowed from 2 to 8.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Procedural Matter

1. It was agreed at the hearing that the correct site address is Crafty Flats Lane. The above brief description of development is taken from the application form. The Council treated the application as a proposal to enlarge the gypsy caravan site which exists, and to vary condition 3 of the original planning permission. However, as that permission relates to a different and smaller site I consider that this proposal is best dealt with simply as an application for the use of land as a gypsy caravan site for up to 8 caravans, and this would accord with the application plan submitted. It was agreed at the hearing that I should deal with the appeal on that basis. The extant planning permission is an important material consideration, and the effect of a permission granted for the current scheme would be to increase the permitted size of the gypsy caravan site to approximately twice its current area.

Planning Policy

2. The Derby and Derbyshire Joint Structure Plan of 2001 contains 2 policies of relevance. Transport Policy 4: Land Use and Transport, seeks to ensure, amongst other things, that new development will make provision for safe and convenient access and internal circulation. Housing Policy 8: Gypsies and Travellers, is a criteria based policy. The criteria require that provision for caravan sites is related to the scale of demand; is located in broad areas frequented by gypsies; is accessible to services and facilities; has good access and does not cause road safety problems; and is capable of sympathetic assimilation into the surroundings.
3. The South Derbyshire Local Plan was adopted in May 1998. Housing Policy 15: Gypsy Caravan Sites, is also criteria based. The policy is permissive of caravan sites provided that the site is in an area frequented by gypsies; that it is satisfactorily related in relation to other development; that it is acceptable in environmental terms; that it is reasonably accessible to services and facilities; that it is capable of sympathetic assimilation into its surroundings; and that there is adequate provision for access.

Background

4. The issue in dispute between the main parties surrounds access to the site and the use of Crafty Flats Lane in conjunction with other surrounding roads, and the likely impact on the safety of these highways by extra traffic generated in conjunction with the number of caravans proposed.
5. The Council has not disputed the status of the appellant and his family as gypsies. I was told at the hearing that the extra caravans are required principally by Chantelle and Jane Anne Boulton, Amos and Amanda Smith and their children, Frank and Jane Smith and their children, Siddy Finney and his son, and Waylus Boulton and his children, all of whom are directly related to the appellant. They wish to live together in the traditional gypsy manner, and I understand that the appeal site is already in use for that purpose.
6. I heard details of their gypsy background and continuing gypsy lifestyle at the hearing. On the basis of the information offered, including the fact that all are gypsies by birth, all travel to traditional fairs, and that horse trading and dealing is an integral part of their lifestyle, I am satisfied that gypsy status of the appellant's family has been established in accordance with the definition in ODPM Circular 01/2006 – *Planning for Gypsy and Traveller Caravan Sites*.
7. There is no dispute between the parties that the site is within an area frequented by gypsies, that it is reasonably accessible to services and facilities, and that it would be capable of assimilation into its surroundings subject to extra landscaping being provided around the site boundary. The Council also agrees that there is an unmet, although as yet unquantified, need for gypsy caravan sites in the general area. On the basis of the information supplied, my inspection of the site and its surroundings, and the latest gypsy count figures for the District and County, I concur with these views. I therefore agree with the appellant that the proposed development meets the majority of the criteria in both Structure Plan Housing Policy 8 and Local Plan Housing Policy 15.

Main Issue

8. In the light of the above the main issue in the appeal is the effect of the proposed development on highway safety.

Reasons

9. The existing caravan site has been present for many years and is a well established feature of the locality. The access to the site is not ideal as I was able to see when I visited. Visibility when leaving the site is restricted by the wall to the east of the entrance, and to a lesser extent by the hedge to the west. Even so, there is agreed achievable visibility of some 70m to east and west when 2m back from the carriageway edge, over land controlled by the appellant or within the highway.
10. The lane onto which the access leads is narrow and inadequate for the passing of 2 vehicles without running over the verge or into a gateway. There are no formal passing places. It is not the case that the verges are wide enough for passing along the whole length of the road, and in addition there are deep ditches in places which would make overrunning the verge a difficult manoeuvre. However, on the 3 occasions I visited the site, both accompanied and unaccompanied, I did not observe any other vehicle using the lane. This ties in with the

appellant's traffic count, which shows extremely low daily flows. My observations of the verges also indicated that any necessity to overrun them in order to pass must be occurring infrequently to say the least, since there was no apparent damage.

11. I agree that speeds along the lane are likely to be low, as indicated by the appellant's survey. The results of the analysis of the survey suggest that visibility distances of 45m to the east and 70m to the west would be adequate, based on the advice of *Places Streets and Movement – A Companion Guide to Design Bulletin 32*. However the existing wall obscures a part of the carriageway to the east and although the narrow width of the lane means that a vehicle approaching would be likely to be at least partly visible, cyclists or walkers might not. As a result I consider that it would be in the best interests of highway safety to require 70m visibility in both directions. This could be required by condition.
12. The site is already being used by the appellant and his family, and this inevitably increases the number of vehicles using the lane. In my judgement the use of the lane by these extra vehicles is not likely to raise the daily traffic flows above what is a very low level. Consequently, on the basis of the existing configuration of the access and its potential for improvement, low vehicle speeds, and the low usage of the lane, I am satisfied that adequate visibility for the site access can be achieved, subject to conditions requiring visibility to be improved and retained.
13. It has been pointed out that the visibility at the junctions of Crafty Flats Lane and other roads to the east and west is also substandard. Again, I agree that the visibility is not ideal and that care is required when using those junctions. However, I am also mindful of the fact that traffic flows from Crafty Flats Lane are low, and that my observations suggest that other roads in the locality are not subject to heavy traffic flows. Therefore I do not regard the limited visibility at these road junctions as a determining issue in the appeal.
14. My overall conclusions on the main issue, therefore, are these. The current access from the appeal site is adequate for the proposed use subject to conditions to ensure visibility is improved and retained. Crafty Flats Lane is so lightly used that its restricted width would not be likely to lead to vehicular conflict and any limited passing manoeuvres would be achievable. The junctions at either end of Crafty Flats Lane are also adequate for the likely traffic flows. In total, therefore, I am able to conclude that the proposal accords with the objectives of Structure Plan Housing Policy 8 and Transport Policy 4, and with Local Plan Housing Policy 15.

Other Matters

15. The appellant noted that in the event of planning permission being refused members of the family would have to resort to unauthorised roadside camping, would be deprived of their home, and that this would be a breach of their human rights. As I have decided to allow the appeal I do not need to deal with this matter.

Conditions

16. Apart from the need for a condition dealing with the improvement and retention of adequate access it would be necessary to impose a condition requiring a landscaping scheme to be agreed and implemented in order to assimilate the development in its surroundings. There is also a need for conditions limiting the use of the site to gypsies, and limiting the number of caravans, in view of the particular needs established. Conditions restricting commercial

use of the site and the size of vehicles being parked there are necessary in order to protect the appearance of the locality. Finally, I agree that a condition requiring a scheme of adequate drainage would be reasonable in order to protect groundwater sources.

Conclusions

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

Formal Decision

18. I allow the appeal, and grant planning permission for the use of land as a gypsy caravan site for up to 8 caravans at The Caravan Site, Crafty Flats Lane, Coton in the Elms, Swadlincote, Derbyshire, in accordance with the terms of the application, Ref: 9/2004/1640/U, dated 17 December 2004, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of five years from the date of this decision.
- 2) This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) No more than 8 caravans shall be stationed on the site at any one time of which no more than 1 shall be a static caravan.
- 4) No commercial activity or outside storage related to any trade or business shall take place on the site.
- 5) No vehicle shall be parked overnight or stored on the site which exceeds 3.5 tonnes unladen weight.
- 6) Within 3 months of the date of this permission a landscaping scheme for the site shall be submitted to, and approved by, the local planning authority. The approved scheme shall be implemented in the first planting season after its approval and thereafter any trees, hedges or shrubs which die, are damaged or become diseased within 5 years shall be replaced with plants of the same species unless the local planning authority gives written approval to any variation.
- 7) Within 3 months of the date of this permission a scheme shall be submitted to and approved in writing by the local planning authority which shall ensure the provision and retention of 2m x 70m visibility splays at the site entrance and the provision of internal site manoeuvring space. The approved scheme shall be implemented within a period of 3 months from its approval and shall thereafter be retained.
- 8) Within 3 months of the date of this permission adequate drainage shall be provided at the site in accordance with a scheme to be submitted to and approved by the local planning authority. Thereafter the approved scheme shall be retained.

Philip Major

INSPECTOR