

## DEVELOPMENT CONTROL COMMITTEE – 20 April 2004

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).

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### REPORT OF THE PLANNING SERVICES MANAGER

1. Planning Applications
2. Appeals

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

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



20/04/2004

**Item** 1.1**Reg. No.** 9 2003 1460 D**Applicant:**

Stubbrook  
 Developments  
 C/O Ellastone Old House  
 Ellastone  
 Ashbourne  
 Derbyshire  
 DE62GZ

**Agent:**

Jim Chapman  
 Stubbrook Developments  
 C/O Ellastone Old House  
 Ellastone  
 Ashbourne  
 Derbyshire  
 DE62GZ

**Proposal:** The erection of fifteen dwellings Yew Tree Farm The Hays  
 Hatton Derby

**Ward:** Hatton

**Valid Date:** 05/12/2003

**Site Description**

Please see the previous Committee report attached at annex A.

**Proposal**

The applicants have instructed that the proposal now be viewed as a submission of reserved matters following the grant of outline planning permission. That is a development of 15 dwellings contained in the boundary of the outline planning permission site.

**Applicants' supporting information**

As above

**Planning History**

Please see previous report

**Responses to Consultations**

No new responses

**Responses to Publicity**

Objections remain

## **Structure/Local Plan Policies**

Please see previous report

## **Planning Considerations**

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

- The Section 106 Agreement.
- The acceptability of the layout.
- The impact on neighbours

## **Planning Assessment**

Since the Committee last met, its instructions in respect of the Section 106 Agreement have been forwarded to the applicants. In response to this the applicants have accepted that they requirements of the Section 106 Agreement in respect of the drainage works should be implemented and to this end have amended the application to one of a Submission of Reserved Matters following the grant of outline planning permission.

The other matters relating to securing additional payments to the Authority for school and health requirements in the village were transmitted to the applicants. The response was to amend the application as described above. The effect of this is to ensure that the requirements of the outline permission are met and removes the ability of the Authority to require additional funds in line within recently adopted guidelines. Accordingly, the Committee's instructions in respect of the full application are no longer achievable.

The Committee's attention is drawn to the Planning assessment in the previous report regarding the layout of the site.

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

## **Recommendation**

**GRANT** approval of reserved matters subject to the conditions set out in the previous report (other than those previously attached to the outline permission).

20/04/2004

**Item** 1.2**Reg. No.** 9 2003 1503 TP**Applicant:**

Donald Ward Ltd  
 Rawdon Works  
 Moira Road  
 Woodville  
 Derbyshire  
 DE118DG

**Agent:**

Donald Ward Ltd  
 Rawdon Works  
 Moira Road  
 Woodville  
 Derbyshire  
 DE118DG

**Proposal:** Removal of four trees closest to the north side of the building addressed as 8 Moira Road covered by South Derbyshire District Council Tree Preservation Order Number 217 at 8 Moira Road Woodville Swadlincote

**Ward:** Woodville

**Valid Date:** 15/12/2003

This matter was reported to Members at the last Committee when it was deferred to allow the Authority to commission a structural engineer to assess whether the trees are causing direct damage to the building. (The previous report is attached at annex B).

**Planning Considerations**

The engineer's findings were not available at the time of preparing this agenda but will be reported to Members at the Committee.

**Recommendation**

**GRANT** permission subject to the following conditions:

1. The work hereby approved shall be carried out within two years of the date of this consent.
1. Reason: To enable the LPA to assess future proposals should this work not be implemented.
2. No works to any trees shall be carried out until the local planning authority has approved in writing full details (including location, species and size of planting) of every tree and shrub to be planted by way of replacement for those to be felled under the terms of this consent, including its proposed location, its species, its size at the date of planting, and the approximate date when it is to be planted.

2. Reason: To ensure replacement planting is provided to safeguard the amenities of the area.
3. Trees and shrubs shall be planted in accordance with the details approved by the Council under Condition 2.
3. Reason: To safeguard the amenities of the area.
4. If within a period of two years from the completion of the planting any of the trees or shrubs planted in accordance with condition 3, or any tree or shrub planted as a replacement of any of those trees or shrubs, is cut down, felled, uprooted, removed or destroyed or dies or becomes on the opinion of the Local Planning Authority, seriously damaged or defective, a replacement shall be planted of the same specification and species as that lost.
  - (a) the local planning authority shall be notified as soon as reasonably possible,
  - (b) another tree or shrub of the same species shall be planted at the same location, at a time agreed in writing by the local planning authority,unless the local planning authority agrees in writing to dispense with or vary the requirement.
4. Reason: To provide for replacement planting if necessary in the interests of safeguarding the amenities of the area.

- the opportunity could have been taken to construct a turning head to allow vehicles to exit in a forward direction which would be an improvement as visibility is limited at the site entrance
- the owner of the house has a field to the rear for which there is currently no access and construction of the garage would remove the option of providing vehicular access to the field through the side garden
- The front elevation of the extension has a square bay window whereas the other bay window is differently shaped, this will cause an imbalance to the design, make the appearance incongruous and spoil the character of the building.

## **Responses to Publicity**

**Four letters of representation have been received raising the following issues:-**

- concerns over the erection of the garage at the front of the property which will encourage other people to do the same and create an eyesore
- the property is already large enough and has been previously extended, the area is relatively rural and this should be retained, the extension will set a precedent for other and spoil the surroundings
- impact on views from neighbouring dwellings
- all properties on Lullington Road have frontages of attractive gardens/ lawns and these should be retained in tact to keep the rural feel of the area
- extension of the house would result in the pair of semi-detached dwellings appearing very different from one another and would present a very unbalanced appearance
- the garage in the front garden would be out of keeping and would result in vehicles reversing onto a busy road immediately next to a bus stop and with visibility hindered by a large tree

## **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan:

Local Plan: Housing Policy 13

Emerging Local Plan: ENV 21

## **Planning Considerations**

The main issues central to the determination of this application are: the design of the proposals and appearance of the development in the street scene and the impact on the amenity of the occupiers of neighbouring dwellings.

## **Planning Assessment**

The proposed extension has been amended so that it no longer projects forward of the dwelling and will be set down from the existing ridge line. This ensures that the extension will appear subordinate to the main dwelling and the design complies with the advice contained in the Supplementary Planning Guidance on Extensions. The extension complies with the Council's Space About Dwellings standards and will not have an adverse impact on the amenity of the occupiers of any neighbouring dwelling.

20/04/2004

**Item** 1.3**Reg. No.** 9 2004 0036 FH**Applicant:**

Mr A Lloyd  
60, Lullington Road  
Overseal  
Swadlincote  
Derbyshire  
DE126NG

**Agent:**

Mr A Lloyd  
60, Lullington Road  
Overseal  
Swadlincote  
Derbyshire  
DE126NG

**Proposal:** The erection of a two storey side extension and detached single garage at 60 Lullington Road Overseal Swadlincote

**Ward:** Seales

**Valid Date:** 28/01/2004

**Site Description**

The site is a traditional semi-detached dwelling located on the edge of Overseal village, one of a row of mixed types and styles of dwellings fronting Lullington Road.

**Proposal**

The application proposes the construction of a two-storey side extension and a detached single garage in the front garden. The application has been amended since it was first submitted, the proposed extension has been reduced in scale so that it does not project forward of the existing dwelling and the ridge has been set down slightly from the main ridge of the dwelling.

**Planning History**

Permission was granted for a first floor extension in 1996 and a conservatory in 2001.

**Responses to Consultations**

Councillor Hall requested that the application be reported to Committee.

The County Highway Authority has no objections.

Overseal Parish Council objects to the scheme on the following grounds:-

- the garage would be built in the front garden and would be obtrusive
- the garage would set a precedent for other properties nearby to build in the front gardens and would detract from the appearance of this row



The proposed single garage is set forward of the main dwelling within the front garden area. The adjoining dwelling, No 58, is also set forward of No 60 and the proposed garage will be almost in line with this property. When approaching the site from Lullington Road the garage will be viewed against the backdrop of this property. The garage is of an appropriate design with a steep pitched roof and would be constructed of materials to match the main dwelling. It is not considered that the positioning of the garage will be significantly detrimental to the street scene or appearance of the surrounding area. The garage will not adversely affect the amenity of the occupiers of any neighbouring dwelling and its siting complies with the Council's Space About Dwellings standards.

### **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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing received on the 9th March 2004.
3. Reason: For the avoidance of doubt, the original submission being considered unacceptable.

### **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](http://www.coal.gov.uk).

20/04/2004

**Item** 1.4**Reg. No.** 9 2004 0048 F**Applicant:**

Mr A S Thompson  
 Dovecote House  
 Heage Lane  
 Etwall  
 Derbyshire  
 DE65 6LS

**Agent:**

Jonathon Jenkin  
 Planning & Design Practice Ltd  
 61 Friar Gate  
 Derby  
 DE1 1DJ

**Proposal:** The erection of a bungalow and detached garage at Farm Buildings At Cedar Farm Dalbury Lees Ashbourne

**Ward:** North West

**Valid Date:** 19/01/2004

**Site Description**

The site comprises an area of former farmyard to the rear and below the cottages that front onto The Green. The boundaries to these properties abut the application site and the north and east boundaries are fences. The boundary to the farmyard is open. Two former agricultural buildings occupy part of the site. A public footpath passes through the farmyard running past the site.

**Proposal**

It is proposed to erect a bungalow on the site with an access taken from the one formed to serve the rest of the development rather than the original farm access. Brick and roof tiles would be determined if planning permission were granted.

**Applicants' supporting information**

This is the last part of the development at Cedars Farm. The site lies within the Village Development Boundary as set out in the adopted South Derbyshire Local Plan Inset Map 15. General Development Strategy Policy 1 in the Derby and Derbyshire County Structure Plan seeks to implement a sustainable approach to development. Structure Plan housing policy 5 aims to accommodate new housing developments within the confines of villages and defined in Local Plans; provided it is in keeping with the scale and character of the village.

The new bungalow will be lower than the buildings it replaces. With no windows facing back towards Swallow Cottage and the adjoining properties, the development will improve the outlook and amenities for nearby residents. It will also improve the appearance and character of the area by the removal of unsightly and dilapidated buildings.

This application follows on from the recent appeal decision where the inspector held that the construction of two dwellings at Cedars Farm was acceptable in planning policy terms and he challenged Policy HI in the emerging Local Plan. Policy HI states that in various named villages within the District including Lees that: ...residential development will be limited to the building of no more than two dwellings on a brownfield site to fill a gap in an otherwise built up frontage.

The Council held that development at depth was unacceptable and fell outside the terms of the Policy. The inspector stated:

*'I appreciate the need to limit development in rural villages for sustainability considerations and it seems to me that this is very much the purpose behind paragraphs 69 & 70 in PPG3. But I do not see anything in PPG3 that indicates that frontage development is acceptable while development in depth is not.'*

The proposal for one dwelling will round off the development at Cedars Farm. Whilst it represents development at depth, it is on land that lies within the Village Development Boundary and with the removal of the existing dilapidated buildings it should be acceptable in principle and will improve the appearance and character of the area. The proposed access is safe and complies with the standards set out by the County Highways Authority. Foul drainage will be to the mains foul sewer and the village sewage treatment plant has been subject to recent upgrading and improvement.

The proposed development complies with General Development Strategy Policy I and Housing Policy 5 of the Derby and Derbyshire Structure Plan. Development in this location complies with policies for the village as set out in the adopted South Derbyshire Local Plan and is in line with the recent appeal decision at Cedars Farm.

### **Planning History**

Since 2001 there have been several applications at the site. The first few dealt with conversion of the farm outbuildings and the proposal was eventually permitted and is now under construction.

In 2003, an application for two dwellings in the grounds of the farmhouse was refused on the basis that it was not in conformity with the provisions of Policy HI of the emerging Local Plan. The subsequent appeal was allowed and the erection of these dwellings is expected to commence shortly. It is this appeal decision that the applicants refer to in their submissions above. It was reported to Committee a couple of meetings ago.

### **Responses to Consultations**

The Parish Council objects to the development on the basis that the scale and density of development is swamping the village. These concerns are reinforced by this and other applications that have been submitted. The development would add to traffic through the village.

It is argued that the Inspector drew a distinction between the form of development and the number of dwellings and the application should be refused because it would increase the density and be out of scale and context with the local environment and represent development in depth.

The County Highways Authority has stated that access should be from the southern most access and not the original farm access that is unsuitable for the proposal.

### **Responses to Publicity**

4 letters have been received including one each from an existing and prospective owner of one of the dwellings that overlook the site. The reasons for the objection are as follows: -

- a) The developer is building closer to the boundary than he indicated would be the case on site.
- b) Views from the back garden would be totally obscured by the bungalow and privacy would be compromised.
- c) Windows should not be allowed in the walls that face the cottages.
- d) It is development in depth and not frontage, which is contrary to the Local Plan. The village services are unable to sustain further development. It would open the way for everyone who has a large rear garden to develop that land.
- e) There may be an access issue that could hold up the development.
- f) The development is understood to be in conservation area.
- g) There would be overlooking of windows in adjacent dwellings.

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

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5

Emerging Local Plan: Policy H1

### **Planning Considerations**

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

- Conformity with the development plan
- The impact on neighbours
- Highway issues

### **Planning Assessment**

The site does lie within the existing village confine and the Inspector was quite clear in his interpretation of Policy H1 and Planning Policy Guidance Note 3 in that he did not see development in depth as being outside the scope of the advice. Housing Policy 1 provides for *"no more than two dwellings on a brown field site to fill a gap in an otherwise built up frontage (infilling)"*. A distinction may be drawn in this case because there have already been two dwellings permitted on the site and this development can be argued to be more obviously "in depth" than the earlier two.

Nevertheless, the refusal of permission as requested by the Parish Council would be difficult to sustain at appeal. Each case must be determined on its own individual merits and the fact that the Inspector found that development in depth would be acceptable as infilling is influential in this case. The developer would be able to argue that the development in itself is no more significant than that allowed on appeal and that it constitutes a sustainable use of what would otherwise be a redundant quasi brown field site in the context of overall redevelopment of the former farm complex.

The development would not impinge significantly on outlook from windows of the existing dwellings due to the difference in levels but would affect the outlook from gardens but planning policy does not protect this. Windows in the bungalow are at an angle to the windows in Swallows Corner extension but there would be no direct overlooking but the angle of overlooking is deficient and can be overcome by rotating the bungalow slightly on its axis. An amended plan has been requested. However, it is reasonable to require that no windows be inserted in the wall adjacent to the boundary with Swallows Corner and its neighbours. There is no scope for protecting views.

The County Highways Authority's requirements can be met through the imposition of conditions requiring access from the access to the south and the closure to vehicular traffic of the existing access next to Swallows Corner.

The objectors are not correct in stating that this is a conservation area. The relationship of the two sets of windows is so oblique that there would be no overlooking.

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.

On balance, the application is recommended for approval on the basis of insubstantial injury to the clarity of Housing Policy 1 in this instance..

### **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. The sole access to the dwelling shall be from the access to the south of the application site and the existing site access adjacent to Swallows Corner shall be permanently closed to vehicular traffic in accordance with a scheme that shall have received to prior written approval of the Local Planning Authority. The dwelling hereby permitted shall not be occupied until the new access has been formed and surfaced to the satisfaction of the Local Planning Authority.
3. Reason: For the avoidance of doubt and In the interests of highway safety.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, there shall be no external alterations, including the insertion of new windows, to the buildings other than as approved under this permission.
4. Reason: In the interests of maintaining privacy between dwellings.

5. The dwelling shall not be occupied until the parking and manoeuvring space shown on drawing 5830/ BP1/05 has been provided and the facilities shall thereafter be retained available for that purpose.
5. Reason: In the interests of highway safety.
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.

20/04/2004

**Item** 1.5**Reg. No.** 9 2004 0073 M**Applicant:**

Oculus Properties Ltd  
 Oculus House  
 16 Mill Street  
 Sutton Coldfield

**Agent:**

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

**Proposal:** Residential development including the erection of three detached dwellings the conversion of Eureka Lodge to six flats and extension to provide two flats and an apartment block of three flats with access from Shelley road (flats) and Newhall road (houses) Eureka Lodge Newhall Road Swadlincote

**Ward:** Midway

**Valid Date:** 30/01/2004

**Site Description**

The site is Eureka Lodge building and the surrounding formal garden area. The site is enclosed by mature trees and hedges on all sides and a brick wall marks the eastern boundary of the site beyond a wide bank of mature trees. Many of the trees within the site are included in a County Council Tree Preservation Order dating back to 1969.

**Proposal**

The application is a full submission for 3 detached dwellings, the conversion of Eureka Lodge to 6 flats, extensions to the Lodge building to provide two additional flats and a detached three storey apartment block accommodating three flats. The three detached dwelling are located to the south of the Lodge building on a similar siting to three dwellings approved under the outline consent granted last year. The extensions to the rear/ north of the Lodge building to provide two flats are on a similar footprint to existing parts of Eureka Lodge which are to be demolished. The apartment block is to be located to the east of the Lodge building on a similar siting to a detached dwelling granted outline consent last year.

Access to all 11 flats would be from Shelley Road and parking would be provided to the north of the apartment block and to the rear of the Lodge, partially on the ground floor of the extensions at the rear of the Lodge. Access to the 3 detached dwellings would be from the private drive off Newhall Road.

## **Applicants' supporting information**

The submitted proposals convert Eureka Lodge to 6 apartments. The conversion works include the renovation of the main house and the demolition of the linked 2-storey rear outbuilding. The outbuilding is removed because it adds little to the character of the building and is difficult to convert (the outline permission showed the removal of the outbuilding). It is replaced by a two and a half storey extension incorporating car parking and two apartments. The proposed extension is designed to reflect the characteristics of the main house. It is a much improved design solution to the site's development compared with the detached house proposed within the outline planning consent.

Adjacent to Eureka Lodge and close to Shelley Road it is proposed that a 3-storey apartment building be built. This replaces the outline permission's proposals for a detached dwelling. The design reflects the character and appearance of Eureka Lodge.

All apartments are to be accessed from Shelley Road via a new access involving the demolition of part of the boundary wall and widening an existing access. The access will serve the resident parking and turning areas, which wrap around the sides and rear of Eureka Lodge. Adjacent to the turning area is a bin store designed to serve all 11 apartments.

Within the front garden to Eureka Lodge 3 detached dwellings are to be erected. The 2-storey dwellings are to be brick built. They are located in approximately the same location as the 3 dwellings permitted by the outline consent. These 3 dwellings are physically detached from Eureka Lodge and are accessed from Newhall Road. This detachment allows for the front of Eureka Lodge to be well landscaped and overcomes the poor inter-relationship between the Lodge and the houses proposed in the outline consent.

Outline planning permission was granted for 5 detached dwellings within the garden area to Eureka Lodge in April 2003. The present application follows a detailed investigation of the site taking into account access layout, and design requirements, the importance of retaining the trees (and building relationships to protected trees), the possibility of access from Shelley Road and the relationship of the development to Eureka Lodge itself.

Important trees protected by a tree preservation order bound the site. It is understood that detailed discussions took place at outline planning stage to ensure the majority of these trees are retained. The outline planning application identified the removal of various trees. The submitted scheme removes the same trees and has been designed to ensure the retained trees receive the best protection.

The aim of the layout has been to ensure the 3 detached dwellings are located as far from protected trees as possible. The positioning and the location of the access driveway closely reflects the layout approved at outline stage.

### Access and parking proposals

It is proposed that the existing private driveway from Newhall Road, which serves Eureka Lodge, continues to be used, but serves 3 detached dwellings alone (as opposed to the 3 dwellings and 4 flats previously shown in the outline planning application). A turning facility is to be provided for service vehicles, dustcarts etc. The dwellings will be provided with car parking and garages.



No alterations are proposed to the Newhall Road access. The access, as it no longer serves Eureka Lodge, will generate less vehicle movements than that generated by the previous use as a nursery and dwelling. The access will generate less traffic than previously proposed at outline permission stage. The present access (subject to the trimming back of overhanging trees) is adequate to serve the existing houses together with the 3 additional proposed dwellings. The turning facility will improve access for the existing residents along the driveway.

All other dwellings will be served from Shelley Road. Access will be from the turning head into a parking area servicing 14 parking spaces. The parking spaces will serve the 11 apartments. Three visitor spaces will be provided.

The car park provides slightly more than 125% car parking. This ratio reflects PPG3 and PPG13 advice and is designed to minimise car usage.

Supplementary planning guidance to the Local Plan suggests 3 car parking spaces for dwellings with four or more bedrooms (this standard is met) and 2 spaces for 2 and 3 bedroomed dwellings. One bedroom dwellings attract a requirement of 1 space per unit. The standards for 2+ bedroomed dwellings exceed PPG3 advisory standards. The standards are in the process of being superceded by standards incorporated into the revised replacement Local Plan. Appendix A to that document recommends 1 and 2 bedroomed dwellings should be provided with 1 car parking space per dwelling. The present proposals slightly exceed this standard.

### Sustainability

The site is well located close to all services. A public footpath runs from the end of Shelley Road to Newhall Road allowing easy access from the apartments to bus stops, schools, services, the local park, community facilities and Swadlincote town centre. The 3 houses have direct access to Newhall Road.

The site has an area of 0.73ha. This achieves a gross density of slightly less than 19 dwellings to the hectare. The site's net area (if trees and adjacent areas protected by the tree preservation order are removed) is approximately 0.4ha meaning the net density rises to 35 dwellings per hectare. The resultant net density reflects guidance levels incorporated in PPG3.

The development provides a mix of 1, 1-bedroomed dwelling, 10, 2 bedroomed dwellings, and, 3 large detached houses. The mix provides a broad cross-section of dwellings meeting various needs in the local market. The layout itself reflects the character of the site and makes the best use of the existing building and the two access points. The layout increases densities without compromising the retention of important trees around the site.

The scheme reflects the aims of PPG1 and PPG3 (in terms of sustainability, design, density and location). It makes use of a brownfield site within an urban site and provides a good design response to the re-use of this property.

### Policy

The scheme reflects the aims of General Development Strategy Policies 1, 2 and 3 and fully complies with Housing Policy 3 of the Structure Plan.

The development complies with draft policies ENV 21, T1 and H1.

On these grounds it is concluded that the proposals fully comply with the Development Plan.

### **Planning History**

Outline consent for the erection of five dwellings in the grounds of the Lodge was granted last year.

### **Responses to Consultations**

English Nature have advised that a bat survey should be required from the Applicant to establish whether there are any active bat roosts in the building and if so what mitigation measures may be necessary. The Applicant has commissioned a bat survey and we are awaiting the results although they have confirmed verbally that the survey results are that there are no active bat roosts in the building but that the conversion should incorporate a bat box.

The County Education Authority has advised that the development would be calculated to generate the need for 3 primary school places which would require a contribution of £20 316.

The Environment Agency has no objections subject to conditions.

The County Highway Authority requested further information which has been provided. Their final comments will be reported verbally at Committee.

The County Tree Officer has no objections to development on plots 1-13 but objects to the fact that Plot 14 has a larger footprint than the dwelling that was previously approved in that location last year and raises concerns that the critical rooting zones of the trees would be affected. They recommend a no-dig method of construction for the driveway to this plot. They recommend conditions to be attached to any consent to ensure protection of the trees during development.

### **Responses to Publicity**

Three letters of representation have been received raising the following issues:-

- The proposed intensity of use of the entrance from Shelley Drive is too great, in the previous scheme the access was to serve two dwellings but now it will serve eleven flats which is too much. The turning point at the end of Shelley Drive is well used and the proposed access would be a traffic hazard. Use of the alternative access from Newhall Road would be safer.
- Children play in the turning point and vehicles would endanger their safety.
- The comment that the traffic use will be no greater than when the premises was a nursery relates to a use that occurred 20 years ago and even then the owner would not let parents drive up the private drive, they had to walk.
- More use of the private drive will result in a loss of privacy for occupiers of the dwellings fronting the driveway and result in a greater hazard to pedestrians using the drive.
- The drive off Newhall Road is unsuitable as it is too narrow with a lack of visibility at the entrance.
- Concerns over construction traffic and means of access to the site, issues of highway safety on the narrow road network leading through the poets estate and the liability of persons responsible for damage to the private drive should construction traffic use this route.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 3 and Housing Policy 3.

Local Plan: Housing Policy 4

Emerging Local Plan: Policy H1

## Planning Considerations

The main issues central to the determination of this application are: the design, appearance and siting of the proposed dwellings, the means of access to the site and impact of the development on the protected trees.

## Planning Assessment

The site is located within the Swadlincote urban area and is a brownfield site. Residential development of this site is therefore acceptable under the provisions of Policy H1 of the emerging Local Plan and the principle was established last year through the granting of outline consent for five dwellings within the grounds of the Lodge building.

This current application includes the conversion of the Lodge building itself to six flats, along with an extension to create two further flats, an apartment block within the grounds housing three flats and the construction of three detached dwellings. The proposed development is below the density requirements of PPG3 however the protected trees on the site are a significant constraint to development and the scheme provides a good mix of housing types, retains the Lodge building and represents a greater density of development than that previously approved.

The conversion of the Lodge building itself will result in little external alteration to the building. It is considered to be an acceptable scheme which would secure the retention of the building in its current form and its historical value. The annex at the rear of the Lodge is largely in the same position as existing rear outbuildings to the Lodge and therefore will not result in any impact on the occupiers of any adjoining dwelling. The three storey apartment block and three detached dwellings are sited in very similar positions to the dwellings approved under the outline consent. It is not considered therefore that the impact of the development on the protected trees will be significantly different from the scheme that has previously been accepted. The design and external appearance of the properties are considered acceptable.

County Highways has no objections to the principle of the development but has requested further information which has now been submitted, final highway comments will be reported verbally at Committee. English Nature requested that a bat survey be carried out which the Applicant has confirmed verbally has been done, a condition can require the submission of the survey and any mitigation measures required to be carried out.

The Applicant has negotiated with the Education Authority and agreed a payment of £18,000 as a contribution along with a contribution towards healthcare provision of £444 per dwelling, this can be required as a unilateral undertaking by condition.

## 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. 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.
3. Reason: In the interests of the appearance of the area.
4. 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.
4. Reason: In the interests of the appearance of the area.
5. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
5. Reason: In the interests of the appearance of the area.
6. 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. No development or other operations shall commence on site until a scheme (herein after called the approved scheme) which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, has been submitted to and approved in writing by the Local Planning Authority; no development or other operations shall take place except in complete accordance with the approved protection scheme.
7. Reason: To protect the trees/ landscape areas from undue disturbance.

8. No operations shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition work, soil moving, temporary access construction and/ or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved scheme are in place.
8. Reason: To protect the trees/ landscape areas from undue disturbance.
9. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
9. Reason: To protect the trees/ landscape areas from undue disturbance.
10. Protective fencing shall be retained intact for the full duration of the development hereby approved, and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.
10. Reason: To protect the trees/ landscape areas from undue disturbance.
11. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted as Plot 14 shall not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.
11. Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.
12. Prior to the commencement of development a detailed survey to demonstrate whether bats are or have been present on the site shall be submitted to the Local Planning Authority, this should identify the number and species that are present, include a method statement and a mitigation strategy where necessary. Any mitigation works required must be carried out in accordance with a timetable to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
12. Reason: In the interests of the preservation of the species.
13. No development shall take place until the applicant has submitted to and had approved by the Local Planning Authority a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 to secure a contribution of £18,000 for education and a contribution of £444 per dwelling for healthcare provision.
13. Reason: To ensure that adequate education and healthcare provision can be achieved to service the development.

#### 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](http://www.coal.gov.uk).

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

To note that the services and driveways should be carefully planned and installed in line with BS 5837:1991.

To note that the minimum stand-off distance and erection of protective fencing around the trees should be in accordance with the requirements of BS 5837:1991.

To note that the trees on site are covered by the County Council's Tree Preservation Order, the landscaping scheme should include replacement planting for each tree removed during development. The species, size and location of the replacement trees should be chosen in consultation with the County Council.

20/04/2004

**Item** 1.6**Reg. No.** 9 2004 0214 F**Applicant:**

Pathfinder Pubs  
 Albany House  
 Albany Road  
 Wolverhampton  
 WV1 4JT

**Agent:**

Paul Koren  
 4 Airdale Grove  
 Stone  
 Staffordshire  
 ST15 8JL

**Proposal:** The provision of new floodlights and external lighting at  
 Crewe & Harpur Arms Derby Road Swarkestone Derby

**Ward:** Aston

**Valid Date:** 24/02/2004

**Site Description**

The site is a longstanding public house and restaurant adjacent to Swarkestone Bridge. The main building and the attached former stable block are listed buildings. There is a beer garden opposite, next to the River Trent, separated from the front of the main building by Woodshop Lane.

**Proposal**

The application seeks consent for the following lighting:

- Two lighting columns (5m high) to the rear corners of the car park.
- One 3m and one 4m lighting column to the beer garden (existing column to be removed).
- Eight ground mounted flood lights to illuminate the Derby Road faces of the building (existing lighting to be removed).
- Two lanterns over the entrance doorways.
- Three bollard lights to the drinking area near the main doors and two adjacent to the beer garden steps.
- Seventeen buried uplighters in the beer garden using low wattage bulbs.

At the time of preparation of this report some of the lighting had been installed, including the two columns to the car park.

Applicants Supporting Information

- a) Lighting to the garden/external drinking areas would be by 7 and 11 watt low energy and low brightness energy saving lamps. The floodlights to the beer garden would be 70-watt low energy lamps.

- b) Building illumination would be by 150-watt low energy spots and 70-watt directional floods. The existing eaves level lighting would be removed.
- c) Four 150-watt floods on the two new columns, fitted with anti-glare louvers would augment car park lighting.
- d) The lighting has been designed to produce a subtle low brightness effect and reduce the possibility of light spread or overspill to areas other than those intended for illumination.
- e) The applicant would be pleased to review the lighting following installation should residents make any complaints, and thereafter remedy the situation by redirection of lights or the provision of additional hoods/louvers.

### Site History

Permission has recently been granted to convert and extend the former stable block into overnight accommodation and to pave part of the beer garden, as part of current renovation works (9/2009/00932/F & 9/2004/0079/F). Prior to that extensions were permitted in 1993. Applications for an illuminated hanging sign are contained in this agenda (9/2003/0321/A & 0322/L).

### **Responses to Consultations**

The Highway Authority has no objection in principle.

### **Responses to Publicity**

Five neighbours object in the following terms:

- a) The lighting would be in excess of that needed to illuminate the premises.
- b) In the past Swarkestone has opposed street lighting. This would have a similar effect.
- c) There would be light pollution to neighbouring properties. Telephone complaints have been received from neighbours about the impact of the car park floodlights, including reference to glare.
- d) There would be distraction and danger to motorists and pedestrians. A risk assessment should be undertaken.
- e) Parking problems in Woodshop Lane would be exacerbated.
- f) The lighting would be detrimental to the character and appearance of the conservation area.
- g) Lighting should be designed to avoid light pollution in the sky.
- h) Street lighting is desperately needed as an alternative to the proposal.
- i) Proposed future controls over light pollution should be taken into account.

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

The relevant policies are:

Joint Structure Plan: Environment Policies 9 & 10

Local Plan: Environment Policies 12 & 13

Emerging Local Plan: Policies ENV 19 & 20.



## **Planning Considerations**

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

- Impact on the character and appearance of the conservation area and listed building.
- Residential amenity.
- Light pollution.
- Highway safety.

## **Planning Assessment**

The design of the lighting units is in keeping with the character and appearance of the area, having regard to the fact that the site is a long-standing commercial undertaking. In particular the means of lighting the building represents an improvement over the preceding arrangements. The lighting columns, door lanterns and bollards are of simple design and the uplighters in the beer garden would be unobtrusive. With regard to the impact of light on the character of the area and the listed building the development would not be detrimental, subject to the conditional controls recommended below.

The site can be described as being within a rural or small village location. The Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution make specific recommendations for lighting in such an area. Provided the guidelines are met by conditional control then light pollution from the development would be acceptable.

On the advice of the Highway Authority there would be no detriment to safety, subject to appropriate 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**

**GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. The lighting shall conform at all times to 'Table 1 - Obtrusive Light Limitations for Exterior Lighting Installations' for Category E2 low district brightness areas, as set out in the attached Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution, 2000.
2. Reason: To avoid light pollution in the interests of preserving the character and appearance of the area and to prevent loss of amenity to nearby residents.
3. The lights shall meet the guidelines referred to in Condition 2 above for 'After Curfew' between 23.30 hrs and dawn, unless as may otherwise be agreed in writing with the Local Planning Authority.
3. Reason: To avoid light pollution in the interests of preserving the character and appearance of the area and to prevent loss of amenity to nearby residents.

4. All external light sources within floodlights and spot lights shall be shielded from highway traffic.
4. Reason: To preserve amenity and prevent danger to road users.
5. All external light sources shall be angled and shielded and of such an intensity as to confine the area lit to the boundaries of the application site.
5. Reason: To preserve amenity and prevent danger to road users.
6. The lighting columns shall be painted in black, unless as may otherwise be approved in writing by the Local Planning Authority.
6. Reason: To preserve the character of the area.
7. Prior to the new lighting being brought into use the existing lighting, as indicated on the submitted drawing and in the applicant's letter dated 01 April 2004, shall be removed from the site.
7. Reason: To avoid light pollution in the interests of preserving the character and appearance of the area and to prevent loss of amenity to nearby residents.

20/04/2004

**Item** 1.7**Reg. No.** 9 2004 0215 L**Applicant:**

Pathfinder Pubs  
 Albany House  
 Albany Road  
 Wolverhampton  
 WV1 4JT

**Agent:**

Paul Koren  
 4 Airdale Grove  
 Stone  
 Staffordshire  
 ST15 8JL

**Proposal:** The provision of new floodlights and external lighting at  
 Crewe & Harpur Arms Derby Road Swarkestone Derby

**Ward:** Aston

**Valid Date:** 24/02/2004

See Report 9/2004/0214/F on this agenda.

The application for listed building consent concerns the two lanterns attached to the host building only and not to any of the free-standing lights.

**Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Environment Policy 10

Local Plan: Environment Policy 13

Emerging Local Plan: Policy ENV 19

**Recommendation**

**GRANT** permission 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.

20/04/2004

**Item** 1.8**Reg. No.** 9 2004 0223 F**Applicant:**

Mr Michael S Norton  
5, East Lawn  
Findern  
Derby  
DE65 6BD

**Agent:**

Miss C E Norton  
12 Oaks Road  
Willington  
Derby  
DE65 6DU

**Proposal:** Extension to existing manege at Mill Farm Porters Lane  
Findern Derby

**Ward:** Willington/Findern

**Valid Date:** 24/02/2004

**Site Description**

The site is located on a hilltop and would adjoin an existing manege to form a larger facility for the applicant.

**Proposal**

Fences would enclose it and the level of the ground would have to be raised to form a level surface. The applicant has indicated that the area should be floodlit to allow horses to be exercised at times when the applicant is available to do so. The proposed hours are 0630 to 2100 each day.

**Planning History**

Permission for a similar application on the same site but with longer hours of operation was refused because of the unacceptable impact on adjacent dwellings and the wider countryside.

**Responses to Consultations**

Findern Parish Council has no objection

**Responses to Publicity**

One letter has been received that states there is no objection to the principle of the extension of the manege but expresses concern about the effect of floodlights on amenity. It is suggested that the hours of operation be further restricted to start at 0730 and finish at 2000 and at weekends 0800 to 1900. The lights should be positioned such that light is not cast upwards and only illuminates the manege. Some boundary landscaping would also be welcome. A generator is used to power the existing manege and this can produce an intrusive noise. The use of the