

# **REPORT OF THE HEAD OF PLANNING SERVICES**

## **SECTION 1: Planning Applications**

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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## **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. SV denotes a Committee site visit case.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
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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 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.

**Item**                **1.1**

**Reg. No.**        **9/2008/0175/MR**

**Applicant:**

Mr Shaun Clarke  
25 Claymore Drive  
Swadlincote  
Derbyshire  
DE11 0LF

**Agent:**

Mr Darryn Buttrill  
bi Design Architecture Ltd  
79 High Street  
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Derbyshire  
DE65 6GF

**Proposal:**        **The demolition of the existing dwellings and the erection of a residential complex comprising 11 apartments with associated parking area at 230-232 Burton Road Woodville Swadlincote**

**Ward:**            **Woodville**

**Valid Date:**      **11/02/2008**

***This case was deferred at the last committee to allow a committee site visit.***

**Reason for committee determination**

This is a major application and more than two letters of objection have been received.

**Site Description**

The site comprises an area of land currently occupied by a bungalow and disused commercial building. The bungalow (No. 230) is sited 6.5m back from the pavement and virtually on the boundary with number 228 Burton Road. The commercial building (No.232) is located some 22m back from the pavement and towards the other side of the site some 3m from the boundary with number 334 Burton Road. The site slopes gently away from Burton Road. Two-storey dwellings bound the house on either side and to the rear. Access to the existing site is from Burton Road adjacent to the left hand boundary.

**Proposal**

The proposal is for the demolition of the existing bungalow and large commercial storage building and the erection of 11 (originally 12) two and single storey apartments.

From Burton Road the development would have the appearance of two semi-detached two-storey dwellings behind which would be a further two-storey lower element reducing to a single storey linked section to the rear consisting of four apartments with rooms in the roof. The single storey element would be on a similar footprint to that of the existing commercial building.

9/2008/0053/F  
29 Main Street, Walton on Trent



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02/05/2008



Access to the site would be along the right hand boundary with parking to the rear.

### **Applicants' supporting information**

The Design and Access Statement makes the following main points:

- a) The proposal falls within the scope of PPS1 and PPS3 which both encourage the use of previously developed land and brownfield sites.
- b) The design of the elevation to Burton Road has been detailed to convey a feeling of two semi-detached two-storey houses to help integrate the building into its surroundings.
- c) The four apartments situated to the rear of the front building will be 600mm lower than those at the front with a single storey building situated to the rear of this further reducing the impact of the building on the surrounding properties.
- d) The single storey element has been positioned on the original footprint of the warehouse with the pitch of the roof kept to a minimum to reflect the height of the existing warehouse and designed to look like an old industrial garage converted to residential accommodation.
- e) Parking is situated to the rear of the site providing a buffer zone between the proposed development and No. 1 Field View.

### **Planning History**

An outline application for residential development of the application site and including land to the rear of 220-230 Burton Road was refused due to substandard visibility in 2004. Since this time statutory Highway requirements have altered and the required distance back from the kerb for visibility splays has reduced from 4.5m to 2.4m. Adequate visibility can now be achieved at the proposed access point.

The site of 230 Burton Road currently has permission for the erection of a detached dwelling permitted in 2005.

### **Responses to Consultations**

The Highway Authority comment that whilst the layout concept is far from ideal it is not considered that a refusal on highway grounds alone would be sustainable at appeal. Following the receipt of amended plans addressing Highway concerns over visibility, access for refuse vehicles and parking the Highway Authority has no objection subject to the bin store situated to front of the building remaining open sided to enable bins to be accessed effectively and quickly by the refuse collection service minimising refuse vehicle waiting time on the classified road.

The Pollution Officer has no objections.

The Education Authority would not seek a financial contribution based on the type of small apartment dwellings proposed.

The Crime Prevention Officer comments that the site is adjacent to a busy road subject to hazard markings. Concern is raised regarding the unallocated parking provision within the site and insufficient parking.

Severn Trent has no objection.

## **Responses to Publicity**

Three letters of objection have been received raising the following points:

- a) The development will increase traffic along an already busy Burton Road within close proximity of Granville School.
- b) Burton Road has been subject to several traffic accidents, one fatal accident being outside 230 Burton Road.
- c) The development on Field View to the rear of the application site already affects views towards Hartshorne.
- d) The buildings will be out of character.
- e) The new buildings are in close proximity to the neighbouring boundaries and will be overbearing and overlook the neighbouring properties.
- f) The development will detract from the value of neighbouring properties.
- g) The area is a quiet residential area and this development will alter this.
- h) The side access to parking at the rear will cause noise and fume issues within close proximity of the neighbouring boundary.
- i) An application was previously refused on the site due to visibility.
- j) The building on site has never been used as a haulage firm as stated on the application forms.

## **Development Plan Policies**

The relevant policies are:

RSS8: Policies 2 & 3

Local Plan: Housing Policies 4 & 11, Transport Policy 6

## **Planning Considerations**

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

- The principle of development.
- Highway safety.
- Residential amenity.
- Visual impact.
- Planning contributions.

## **Planning Assessment**

The site lies in the urban area and is brownfield land. As such the development is acceptable in principle.

The development would be accessed from Burton Road, a busy principle road. The hazard markings on the road adjacent to the site consist of a double white line indicating no waiting, stopping or parking of vehicles at any time. The scheme has been amended to address initial Highway Authority concerns regarding the design of the access for use by refuse vehicles with the provision of an integral communal bin store located towards the front of the building. A further amendment to the scheme to remove the doors to the bin store to ensure effective and quick access and thereby reduce refuse vehicle waiting

time on the classified road and avoid the doors opening onto the access can be required by condition.

The amended plans show parking provision increased to 17 spaces to serve the 11 units with provision of suitable access visibility splays of 2.4m x 90m to the satisfaction of the Highway Authority.

Whilst the Highway Authority considers the layout to be far from ideal it is not considered that the design of the layout alone is sufficient grounds for refusal.

No 234 Burton Road is situated side on to the application site with main windows to both front and rear. A glazed porch roof runs along part of the side of this property with single storey outbuildings extending out to the rear. The two-storey element of the proposal would fall outside of the 45° line taken from the centre of the nearest ground floor window situated to the rear of this neighbouring property and is acceptable. Where the land drops away to the rear of the site the proposed single storey element would be of a similar height and position to that of the existing commercial building.

No 228 Burton Road is set some 17m back from the front of the proposed building with main room windows and an area of garden to the front of the property. The scheme has been amended to set back the two-storey apartment block to the rear of the frontage building to meet the minimum overbearance distance requirement of 12m relating to the main ground floor window of No 228. The first floor windows to Apartment 6, which overlook the boundary of this neighbouring property, have been obscure glazed to prevent overlooking and the velux windows to the single storey apartments to the rear have been raised to prevent overlooking of the conservatory to the rear of No 228.

No 1 Field View is situated to the rear of the site some 16.5m away from the single storey element of the proposal and therefore well beyond the minimum distances required to protect privacy and prevent over-bearance.

The amended scheme is not considered to have any significant adverse impact on the amenity of the neighbouring properties and complies with the requirements of Housing Policy 11 and the Council's Supplementary Planning Guidance – Housing Design and Layout.

The scheme has been designed following pre application discussions. The surrounding properties are mixed in character but mainly consist of two-storey dwellings. The proposal would retain the appearance of two semi-detached two-storey dwellings when viewed from Burton Road in keeping with the appearance of the surrounding area. The remainder of the building would step in behind this frontage section reducing to single storey at the rear limiting the impact on the surrounding properties.

Contributions towards Open Space and Healthcare are sought by way of a Unilateral Undertaking.

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

## Recommendation

Subject to the receipt of a signed unilateral undertaking for the provision of open space monies and contributions towards healthcare **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. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, all laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority, and maintained throughout the construction period in accordance with the approved designs free from any impediment to its designated use.  
Reason: In the interests of highway safety.
4. Before any other operations are commenced (excluding demolition/ site clearance) the access shall be formed to Burton Road, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority.  
Reason: In the interests of highway safety.
5. Before any of the operations hereby approved are commenced facilities shall be provided as agreed in writing with the Local Planning Authority to prevent the deposition of extraneous material on the public highway and shall be maintained throughout the construction period.  
Reason: In the interests of highway safety.
6. Prior to the first use of the development hereby permitted space shall be provided within the application site in accordance with the revised application drawings for the parking for residents/visitors vehicles (including secure covered cycle parking)], laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.  
Reason: In the interests of highway safety.
7. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.  
Reason: In the interests of the appearance of the building(s), and the character of the area.



8. 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.
9. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.  
Reason: In the interests of the appearance of the area.
10. The obscure glazed windows as identified in amended drawing no. 11A shall be permanently glazed in obscure glass.  
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.
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. 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.
13. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.  
B) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

14. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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

15. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 11A, 12A and 13A received 10 April 2008.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

16. Notwithstanding the submitted details an amended plan showing the eastern elevation of the bin store as open sided shall be submitted to and agreed in writing by the Local Planning Authority, the bin store shall be constructed in accordance with the agreed details.

Reason: In the interests of highway safety and to enable bins to be accessed effectively and quickly by the refuse collection service and minimise refuse vehicle waiting time on the classified road.

#### Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months 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.

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.

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports

relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm](http://www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm)

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [dan.calverley@south-derbys.gov.uk](mailto:dan.calverley@south-derbys.gov.uk).

**Item**                **1.2**

**Reg. No.**           **9/2008/0053/F**

**Applicant:**

Mr Gerard Van-Hoek  
South Hill  
Rolleston on Dove  
Burton on Trent  
DE13 9AT

**Agent:**

Gerard Van-Hoek  
Willow Bank House  
South Hill  
Rolleston on Dove  
Burton on Trent  
DE13 9AT

**Proposal:**            **The erection of a detached dwelling and detached garage at 29 Main Street Walton-on-Trent Swadlincote**

**Ward:**                **Seales**

**Valid Date:**        **17/01/2008**

***This case was deferred at the last committee to allow a committee site visit.***

**Reason for committee determination**

The application has been brought before Committee at the request of Councillor Timms because local concern has been expressed about a particular issue, the Committee should debate the issues in this case which are finely balanced and there are unusual site circumstances which should be considered by the Committee.

**Site Description**

The site is a rectangular parcel of garden land that fronts onto Main Street, Walton and has five dwellings dating from the 1980's located to the rear. The site is located between Nos 27 and 33 Main Street, No 27 is a large 20<sup>th</sup> century, detached, brick built house and No 33 is a small, rendered, traditional cottage. The site is within Walton Conservation Area and there are two trees on the site, which are protected by a Tree Preservation Order, a Beech tree, located approximately in the centre of the site and a Norway Spruce located towards the rear of the site. Access to the dwellings at the rear is currently via a drive up the centre of the application site.

**Proposal**

The scheme proposes the construction of a large, detached 2 storey brick built house with rooms in the roof space. The main footprint of the house measures 11.3 metres by 7.1 metres and 8.7 metres to the ridge with a two storey gable set down from the main roof of the house which projects forward of the dwelling by 4.1 metres. The dwelling would be positioned approximately in the centre of the plot and at an angle to Main Street so that it would be in alignment with No 33 Main Street. The access road to serve the proposed and existing dwellings would be located at the western side of the site. A detached double garage would be located to the rear of the proposed dwelling.

9/2008/0175/MR  
230-232 Burton Road, Woodville



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## **Applicants' supporting information**

The predominant building line along Main Street is 4 metres back from the highway with the dwellings either side of the application site proving the exception to this rule. Initial thoughts were that the new development could sit along the predominant building line but this would contravene the 45 degree rule from the principle windows of adjoining dwellings.

The dwelling has been turned a slight angle and constructed along the same alignment as the cottage to the right. Not only does this visually connect the two properties but it ensures that overbearance with adjacent properties is avoided. The garage is sited to the rear to protect the appearance of the street scene.

The overall scale of the proposal has been determined with due consideration for the size and mass of other properties within the village. A conscious decision has been made to limit both the length and depth of the dwelling.

The landscaping will consist of a replacement tree at the rear of the dwelling, a privet hedge on the front boundary, a timber fence to the right hand side and rear of the property, a lawned area to the front of the dwelling and an area of hard paving to the rear with the remainder laid to lawn with borders.

The appearance of the building has been developed through careful consideration of the use of materials and styles that are key to protecting the integrity of the conservation area.

Residents of 1-5 Mewies Close will be provided with a new 4.2m wide vehicle access to replace the existing 3m access road. This two way access will improve current levels of road safety as motorists wishing to gain access into Mewies Close are often faced with having to reverse their vehicle back out onto Main Street to allow egressing vehicles to pass.

## **Planning History**

9/484/265 – Erection of a detached house with integral garage. Approved subject to conditions.

## **Responses to Consultations**

The Highway Authority raises no objections subject to conditions.

Severn Trent Water raises no objections.

## **Responses to Publicity**

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

- The proposal would result in increased parking on Main Street in an area where parking pressures are already great due to the fact that the village hall is well used, including for a nursery, and has no car park. There have been several accidents in the vicinity in recent years.

- The site is described as semi-derelict but up until several months ago was a well tended garden and if it was returned to its original state it would enhance this area of the village in the Conservation Area
- The proposed dwelling is larger than adjacent properties and is out of keeping and will overshadow the surrounding older properties including No 35 which is listed
- The design is inappropriate in its context
- The dwelling is too far forward of the building line between Nos 27 and 33, 80% of the house will jut out of the front of the building line towards the front of the plot
- 2 trees with a TPO will be lost, the owner of the site has already tried to destroy the trees to enhance development potential of the site
- The drive will run alongside the wall and trees adjacent to No 33 and will damage the roots and remove the open ground surface from beneath these trees
- Extra traffic will increase the danger at this accident black spot
- The changes to the drive will make it narrower and it will be more awkward to enter and exit Main Street
- Visibility to the left of the drive is substandard due to the hedge and trees in the garden of No 35 and moving the access closer to this house will make it worse
- The boundary treatment to Nos 33, 35 and 37 will have to be changed and will be out of keeping
- The proposal will affect the privacy of Nos 33 and 35 as this is currently maintained by the hedge/ trees
- The privacy of the bathroom window of No 33 will be affected as it would overhang the proposed drive
- Some of the details in the Design and Access statement are incorrect
- The dwelling will lie in very close proximity to 27 Main Street and affect the privacy of side windows
- The development will directly affect trees in neighbouring gardens

### **Development Plan Policies**

The relevant policies are:

Local Plan: Housing Policies 5 and 11 and Environment Policy 12

### **Planning Considerations**

The considerations are the principle of residential development, the design and appearance of the proposal and impact on the Conservation Area, loss of open space and TPO trees, impact on the occupiers of neighbouring dwellings and highway considerations.

### **Planning Assessment**

The site is a brownfield infill plot where new residential development is acceptable in principle in line with Housing Policy 5 of the Local Plan.

The Conservation Officer requested minor changes to the design of the proposed dwelling and amended plans have been received detailing these changes. The design and appearance of the proposed dwelling are therefore considered acceptable. The dwelling has been aligned at the same angle as 33 Main Street so that it relates well to the historic grouping of buildings consisting of 33 and 35 Main Street and is not over dominant. On the basis of the proposed design and alignment the development would

not have an adverse impact on the character and appearance of the Conservation Area and therefore complies with the provisions of Environment Policy 12 of the South Derbyshire Local Plan.

The site is currently an undeveloped front garden area and contains two protected trees. The TPO was placed on the trees in August 2007 for the reasons that the trees are the only remaining trees on this open land within the Conservation Area and are highly visible from Main Street and that they form an important screening function of the houses to the rear. The beech tree has been heavily pollarded in the past and has an unusual shape and the Norway Spruce is a non native tree. The trees would have to be removed to make way for the proposed development. The screening function of the trees could be replaced by the building itself and two replacement trees of native species could be planted at the front of the site which would provide greenery in this part of the Conservation Area. In view of the particular circumstances of this case it is considered that removal of the trees would be acceptable. The Council's Arboriculturalist has assessed the impact of the proposed driveway on the boundary hedge adjacent to No 33 and has stated that a no dig construction could be used, this would be required by condition. He has also stated that the mature hawthorn in the garden of No 27 would suffer some impact and damage from the development but that the tree would not be killed by the development and is not worthy of a TPO.

The dwelling has been sited so that it complies with the 45 degree angle with respect to the windows on the front of the adjoining dwelling. The occupiers of the adjoining dwelling have raised concerns about the windows on the side of their property however the Supplementary Planning Guidance on Housing Design and Layout states that side windows are considered as secondary windows and as such will generally not be protected. The proposal would be sufficient distance from the dwellings at the rear to comply with space about dwellings standards with respect to these properties.

The Highway Authority has raised no objections to the application subject to conditions requiring a wider access, the provision of appropriate visibility sightlines, a wider footway at the front of the site and appropriate parking provision.

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

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

4. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

5. All boundary walls shall have a traditional style of shaped clay or stone coping the details including a sample of which shall have been previously agreed in writing by the Local Planning Authority.

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

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

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

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

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

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

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

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

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

10. A sample panel of pointed brickwork 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and

approval in writing by the Local Planning Authority before the work is generally executed.

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

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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. No part of the development shall be carried out until precise details including paving patterns, specifications and samples of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

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

13. Prior to the commencement of development a scheme shall be submitted showing a no dig construction for the access road in the area adjacent to the holly trees to the western boundary of the site and the access road shall then be constructed in accordance with the previously agreed details.

Reason: To ensure the retention of the holly trees adjacent to the site in the interests of the appearance of the Conservation Area.

14. Prior to any other operations commencing, the access shall be modified in accordance with the application drawing. The access shall have a minimum width of 4.1m and be provided with 2m x 2m x 45 degree pedestrian intervisibility splays and 2m x 90m visibility sightlines, the area forward of which shall be cleared and maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge. The access shall be surfaced in a solid bound material and provided with measures to ensure that surface water does not flow from within the site onto the footway.

Reason: In the interests of highway safety.

15. Prior to the occupation of the new dwelling, the footway fronting the entire site shall be widened to 1.2m, laid out and constructed to adoption standard in accordance with a scheme first submitted to and approved by the Local Planning and County Highway Authorities.

Reason: In the interests of highway safety.

16. Prior to the occupation of the dwelling, space shall be provided within the site curtilage for the parking and turning of two vehicles and maintained thereafter free of any impediment to its designated use.

Reason: To ensure that adequate parking/garaging provision is available.

17. 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. The landscaping scheme shall include details of the planting of two trees on the site frontage as replacement for the protected trees on the site.

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

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

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

#### Informatives:

The footway and vehicular crossover are required to be constructed to Derbyshire County Council's specifications for adoptable roads. Prior to commencing any works plans and details will need to be submitted for construction approval and an Agreement under Sections 38/278 of the Highways Act 1980 will need to be entered into.

**Item**                **1.3**

**Reg. No.**        **9/2008/0164/F**

**Applicant:**

Mr Mrs J McLeish  
5 Egginton Road  
Etwall  
Derby  
DE65 6NB

**Agent:**

Montague Architects  
9 Vernon Street  
Derby  
DE1 1FR

**Proposal:**        **The erection of a two detached dwellings in the garden  
of Rakehill 5 Egginton Road Etwall Derby**

**Ward:**            **Etwall**

**Valid Date:**      **18/02/2008**

**Reason for committee determination**

Councillors Brown and Lemmon have requested that the application be brought to Committee as local concern has been expressed about a particular issue.

**Site Description**

The site is set back from Egginton Road; on the frontage to Egginton Road to the west there is a small cottage where the eaves height of the cottage is at the same level as the ground level on the application site. The main habitable room windows of this dwelling look south with no windows that could be discerned on the east elevation; in any event windows on the north side of that cottage would face directly into a bank. To the north of the site are the play areas of the Etwall Primary School. Land to the east is the garden to dwellings on Ash View Close and to the south is a row of dwellings fronting to 'Old Egginton Road'; these are accessed via Belfield Road. These houses are set at a slightly lower level than the application site. The site has numerous trees within it and some of these are to be felled.

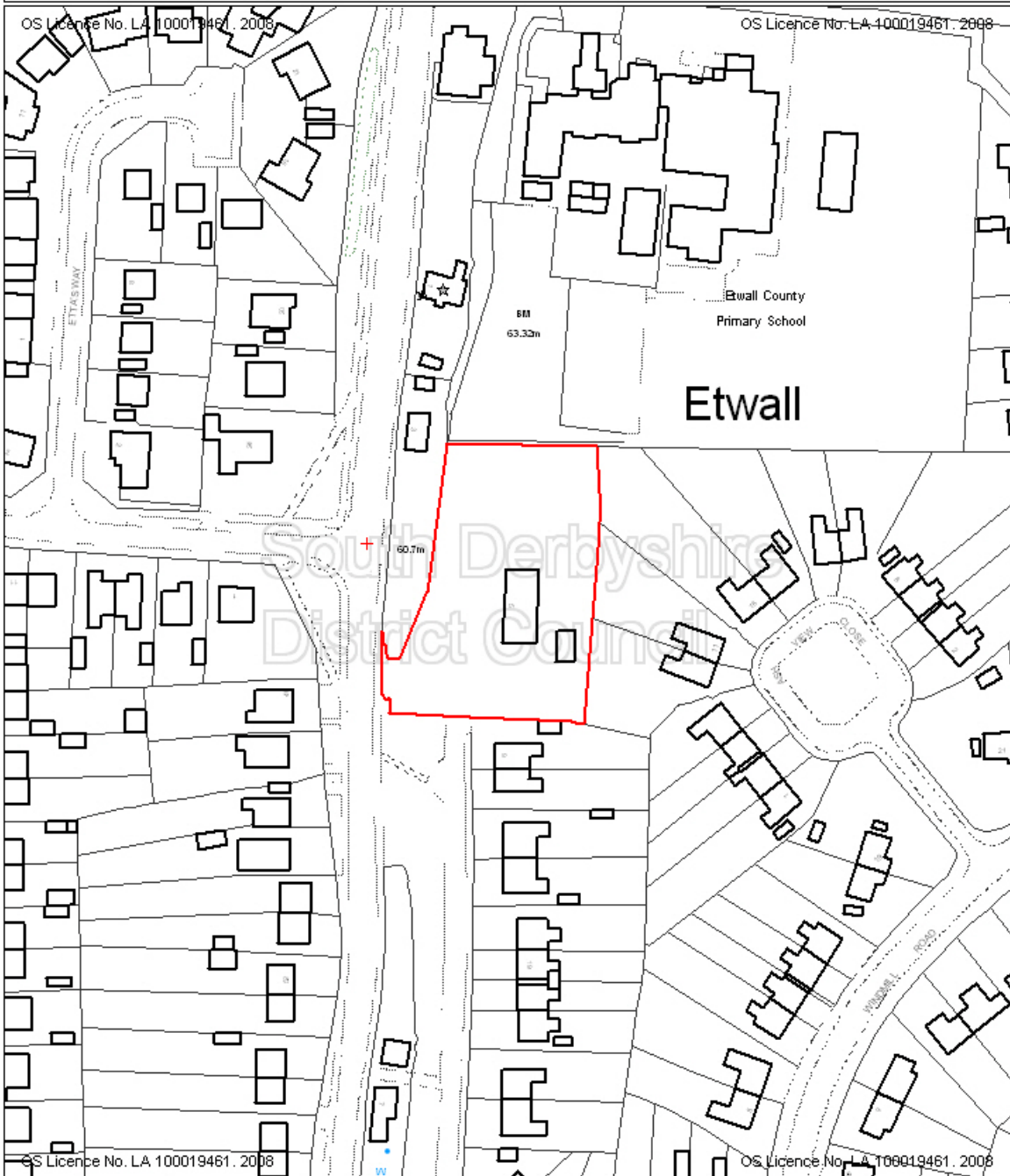
**Proposal**

The proposal is to erect two dwellings either side of the existing house. This will involve adaptations to the original dwelling, as this would have windows that would suffer overbearance should the new houses be built. The adaptations are relatively straightforward and easily achieved; a plan has been submitted to show what would be required.

Access to the three dwellings would be via a new vehicular access to 'Old Egginton Road' that is serviced from Belfield Road, currently a pedestrian access only; if permitted it is proposed that the existing access to Egginton Road would be reduced to

9/2008/0164/F

Rake Hill, 5 Egginton Road, Etwall, Derbyshire, DE65 6NB



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02/05/2008



a pedestrian only access to the site. An amended plan has been submitted to show this detail.

### **Applicants' supporting information**

The applicants note that planning permission was granted in the 1970's for three new houses on the site; that permission was not implemented. It is now proposed to retain the original dwelling, with adaptations to prevent overlooking and overbearance, and position a dwelling to each side. The larger of the two is sited to the north of the existing house, the other dwelling of a simpler design is proposed to the south of the existing dwelling.

The southern most dwelling is designed to provide a transition between the existing dwellings and the larger plots to the north (including the existing dwelling)

Although trees would be removed as part of the development, a substantial number of trees would be retained. The trees to be removed are indicated on the plan accompanying the application.

The dwellings will be designed to be thermally efficient and other sustainable energy sources would be considered and included as part of a detailed design of the dwellings. The applicants consider that the scheme is well designed in accordance with the Local Planning Authority's requirements and is a scheme that would have little impact on the surrounding environment and existing streetscape.

### **Planning History**

Permission to redevelop the site with 3 dwellings was permitted in the mid 1970's and permitted again in 1978. In 1981 permission was granted for the extension of the existing dwelling.

### **Responses to Consultations**

Etwall Parish Council has no objection to the principle of the development but would prefer to see the development served via the existing access to No 5 from Egginton Road, would object to the loss of trees on the site and would support any objections from neighbours. However, in response to the amended drawing, it has no objection but states that it can find no evidence that the access was previously in use.

The County Highway Authority would object to the increased use of the existing access to Egginton Road because of the lack of visibility available for drivers emerging from the site. It has considered the proposal to serve all the dwellings from 'Old Egginton Road' and has no objection subject to the imposition of conditions.

The Environmental Protection Manager has no comments.

### **Responses to Publicity**

6 letters have been received that object or comment on the proposal in the following terms:

- a) There has never been a vehicular access to the site off 'Old Egginton Road' and the formation of a new access is objected to. There is no objection to the houses

- solely the proposed means of access. Many school children use 'Old Egginton Road' to get to school and they could be at risk during building operations.
- b) The development would result in the loss of a substantial amount of greenery and trees particularly those houses to the rear of Rakehill. A large horse chestnut tree is sited close to the boundary that could be compromised a cause a loss of habitat.
  - c) The boundary between the school and the plots is not clear and this will need to be addressed, as it appears that the existing fence is in fact set within the school grounds. In addition it is not agreed that the boundary to the school is well screened

## **Development Plan Policies**

The relevant policies are:

RSS8: Policies 1,2 & 3.

Retained Local Plan Policies: Housing Policies 5 and 11.

## **Planning Considerations**

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

- The Development Plan
- Access considerations
- Impact on neighbours
- The design of the buildings.

## **Planning Assessment**

The development is in accord with the development plan policies for the use of land within the defined village framework for housing. The issues are the impact on neighbours and the access to the site.

The proposed vehicular access is clearly a new one; there is no existing vehicular access. There is a pedestrian gate but that does not appear to be well used. The applicants have provided evidence of ownership of the land between the end of 'Old Egginton Road' and the site boundary and are therefore in a position to create the new access. This is a clear alternative to the existing access that does not meet the requirements for visibility expected by the County Highway Authority. On the advice of the County Highway Authority the new access is acceptable form a highway safety point of view subject to the imposition of the recommended conditions.

The impact of the dwellings on neighbouring properties has been carefully assessed. The houses on Ash View Close and on 'Old Egginton Road' would not be unduly affected by the development. There would be some loss of trees and thus screening but the windows in walls facing the development are sufficiently far away as to comply with the separation standards in the Councils Adopted SPG – Housing Layout and Design. 3 Egginton Road is set significantly lower than the proposed larger dwelling; its main windows are in the end elevations. In addition the rear of the house is set into the ground and windows in the rear elevation are adversely affected by that fact rather than the presence of the new dwelling. The main habitable rooms windows in the end elevation would be unaffected by the proposed dwelling.

The design of the proposed buildings employs features which reflect local distinctiveness and are of a suitably modest scale in relation to the size of the developable area. As such they are considered acceptable and would complement the mixed form of the dwellings in the locality.

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 drawing no. 1898-05C received under cover of your letter dated 14 April 2008.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Prior to any other works commencing, the new access shall be formed with the service road on the southern side of the site. The access shall have a minimum width of 4.1m and be surfaced in a solid bound material for at least the first 5m into the site from the highway boundary.  
Reason: In the interests of highway safety.
4. Prior to any other works commencing (except condition 3 above), the existing access shall be permanently stopped up in accordance with the revised drawing 1898-05C and the footway reinstated in accordance with a scheme first submitted to and approved by the Local Planning and County Highway Authorities.  
Reason: In the interests of highway safety.
5. Prior to the occupation of the first new dwelling, the car parking and manoeuvring space shall be laid out in accordance with the revised application drawing 1898-05C and maintained thereafter free of any impediment to its designated use.  
Reason: To ensure that adequate parking/garaging provision is available.
6. Prior to the first occupation of the dwellings hereby permitted, the works to Rakehill, 5, Egginton Road Etwall shall have been completed in accordance with the information on Drawing 1898-05C and the windows shall thereafter remain blocked up in accordance with the submitted details.  
Reason: In order to ensure that the occupiers of the existing dwelling do not overlook the occupiers of the new dwellings.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, none of the dwellings hereby permitted



shall be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of having regard to the setting and size of the development, the site area and effect upon neighbouring properties.

8. 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.

Reason: In the interests of ensuring that alterations do not adversely affect the amenity of the occupiers of the adjacent dwellings.

9. 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.

10. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets unless otherwise agreed in writing with the Local Planning Authority.

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

11. 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.

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

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

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

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

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months 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.

**Item**                **1.4**

**Reg. No.**        **9/2008/0168/U**

**Applicant:**

Three Horse Shoes Ltd  
The Gatekeepers Cottage  
Mickleover Manor  
Mickleover  
Derbyshire  
DE3 0SH

**Agent:**

Mr M H Rennie (Shareholder)  
Long Lane  
Ashbourne  
Derbyshire  
DE6 5BJ

**Proposal:**        **Change of use from public house to dwelling at Three Horseshoes Long Lane Dalbury Lees Ashbourne**

**Ward:**            **North West**

**Valid Date:**     **11/02/2008**

**Reason for committee determination**

Councillor Bale has requested that the application be brought to Committee as local concern has been expressed about a particular issue

**Site Description**

The application site comprises the whole of the pub curtilage including its car park and grassed areas. Although the site lies in a relatively isolated position in the countryside part of the site (the building) lies with the village confine of Long Lane; a settlement of a small number of dwellings.

**Proposal**

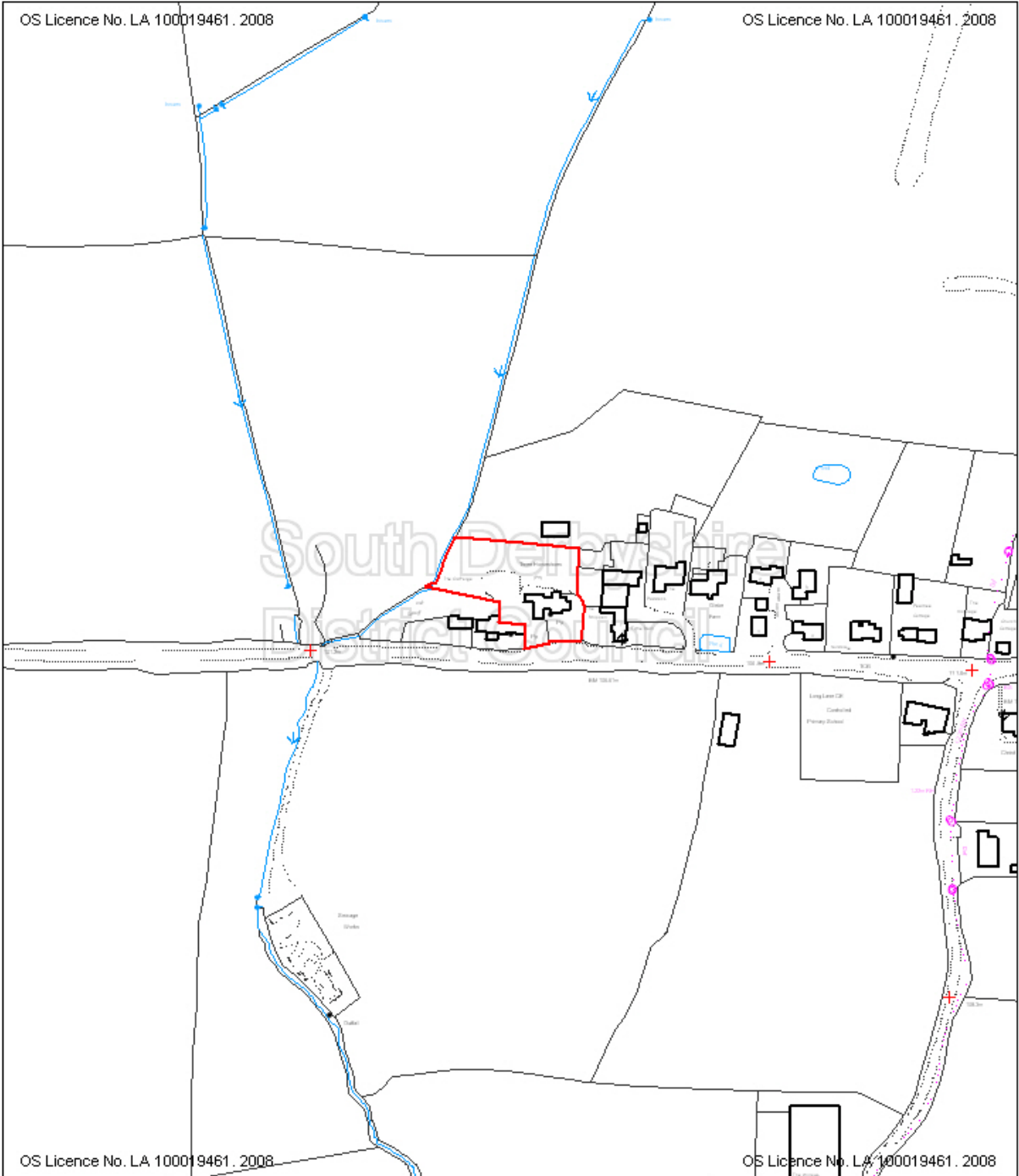
The proposal is to change the use of the pub to a single residential dwelling.

**Applicants' supporting information**

A company owns the pub, formed by local people, who purchased the pub some 19 years ago when a previous proposal was made to close it. The pub at that time had been boarded up and in an attempt to make the pub viable then, the previous owners, First Leisure, had held a number of events that caused significant disturbance to local residents. The villagers wanted to retain the pub and a number were prepared to invest time and money to achieve that. This objective has been achieved over the last 19 years but given the circumstances outlined below, the shareholders consider that they need to consider the options open to them should another tenant fail to achieve a profit on the operation of the pub.

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Three Horseshoes, Long Lane, Dalbury leas



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It has become apparent to the shareholders that the pub is becoming less viable and the company is forced to put it up for sale. Despite recent cash injections from the shareholders to prevent the company from going under, there have been difficulties with retaining managers and subsequently tenants. In the past 12 months there have been three tenants, the last one handing in notice in February this year after 4 months in the pub. It is stated that the rent charged is some 30 – 40% less than what the company has been advised it should be. Despite this, tenants have found the pub to be unviable. The shareholders continue to advertise for tenants and if new tenants are found, then the pub will remain open (proof of advertisement has been received and is available on the file for inspection).

The shareholders are concerned that the campaign to keep the pub open appears to be orchestrated and in fact relatively few objections have been received compared to the numbers required to make the pub viable. There are two other rural pubs close by and a total of 5 others in a 3-mile radius.

However, the shareholders consider that there should be an alternative use for the pub should their latest attempts to find tenants prove unsuccessful. Hence the application to convert the pub to a single dwelling has been submitted. They consider that the shareholder should have the opportunity to seek an alternative use for the pub rather than accepting an offer from others who may then seek planning permission for an alternative use. The applicants note the Council's request for accounts to cover the recent period of the operation of the pub but for the last 5 years or more the pub has been let on a tenancy and as such the tenants have been responsible for the production of the accounts and the shareholders have not received copies of the accounts and as such are unable to provide them.

Since submission of the application, at the Council's request, the applicants have completed a Campaign for Real Ale (CAMRA) Public House Viability Test (available for inspection on the file).

### **Planning History**

There is no recent planning history for this site.

### **Responses to Consultations**

The County Highway Authority has no objection to the development because in highway safety terms it considers that there would be a net benefit due to the reduction in vehicle movements.

The Environmental Protection Manager has no comment.

### **Responses to Publicity**

103 letters have been received objecting to the application for the following reasons, some households have written more than once: -

- a) The loss of the pub would mark a further deterioration in the rural life of the area, the church, school and pub are the centre of the community in Long Lane. There is no alternative meeting place locally for local people.

- b) Up to two years ago, new people to the village are assured of a friendly welcome in the Three Horseshoes where good food and beer were available. This has since deteriorated with the arrival of a succession of different tenants. Recent tenants have left, it is suggested, because of the unreasonable attitude of the landlords'.
- c) There is a responsibility on the shareholders to remember why they bought the pub in the first place and they should attempt to sell it as a public house before trying to change its use. The pub was saved once and it is believed that it could be saved again. The assertion that the pub is not viable is not supported by any of the information accompanying the application.
- d) The pub acts as an attraction to passing tourists and is a valuable addition to the tourist industry with two letting rooms of its own. Indeed the bed and breakfast element of the business is well used, particularly by the DEFRA inspectors when they are in the locality. Also people using the holiday lets at Windle Hill Farm enjoy the fact that there is a traditional rural pub within reasonable walking distance.
- e) The application is the thin end of the wedge and could lead to further applications to develop the grounds of the pub. Rural areas need affordable houses not more executive dwelling and certainly not to the detriment of community facilities.
- f) Little money has been spent on the fabric of the building and internally the only upgrade has been painting. The pub can survive but it needs professional people to run it with a clear focus for the future. A previous tenant has confirmed that the rent was to be increased by 50% to £30,000 – however a Valuer from Nottingham they had employed, advised the tenants that the £20,000 they were paying already was a reasonable rent. It is alleged that rent had been doubled to previous tenants and this negated the possibility of that tenant making a living from the pub.
- g) Locals aware that one or more local people are willing to purchase the pub to keep it open - a former tenant is understood to have made an offer to buy the freehold at a reasonable market price.
- h) It is also the HQ for many local clubs including the Royal British Legion, Sutton on the Hill Cricket Club and others.
- i) The local recycling centre would be lost.

### **Development Plan Policies**

The relevant policies are:

Local Plan: None of the retained policies are relevant.

### **Planning Considerations**

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

- The Development Plan
- Government advice in PPS 7

- The applicants' case
- The objections raised in response to publicity

## **Planning Assessment**

There are no development plan policies that cover the particular situation that this case presents. There was a policy in the abandoned Revised Local Plan but that is not one that is retained in the Planning Policy Statement issued following the abandonment of the Plan.

The Government's advice in PPS 7 is that authorities should have policies in the Local Development Framework documents that set criteria for assessing applications to change the use of rural amenities such as pubs. One of the methods of assessing pub viability is the use of the CAMRA test. This has been undertaken in this case.

The applicants case is that the pub would have closed some 18 years ago but for the actions of the shareholders in purchasing it. In the 18 years various persons have been employed by the consortium culminating in tenants being brought into the pub to run it as they saw fit in an attempt to make a business for the tenants and a return for the shareholders. In reality the shareholders state that they have seen little return on their investment in the pub and indeed have put more money into it. The shareholders state that they continue to seek tenants and have provided evidence of adverts attempting to let the pub once more. This, it is contended, shows that there is an ongoing commitment by the shareholders in attempting to keep the pub going as a local facility. The view of the shareholders is that, but for their intervention, the pub would have closed nearly two decades ago and that if the pub is now no longer viable as a business then they wish to ensure that when offered for sale, the shareholders have the benefit of any uplift in value that may accrue from its use as a single dwelling. The latest advert for the property indicates that the shareholders would require an annual rent of £20,000. The submitted CAMRA appraisal indicates that the pub is not on a regular bus route, there is little or no passing trade. The village itself has about 30 properties with a limited number adults living in a one-mile radius. A search of appeal decisions for the closure of pubs in similar sized communities has shown that such small communities are not large enough to sustain the pub on their own. With the lack of regular passing trade it is considered that the viability of the pub would be compromised.

The objectors take the view that the pub should remain open as a potentially viable business. Previous occupiers of the pub have made a success of the business and that there are other people willing to take the pub open and keep it as a community facility and that they should be given the opportunity to make a 'go' of the pub. Letters have been received to this effect. The pub is viewed as vital to the viability of the local community at Long Lane and the wider area with community groups and tourists taking advantage of the facilities provided by the pub. The objectors' concern is that the shareholders are just out to profit from their investment without regard to the needs of the local community.

The objectors are also concerned that if permission were granted then further applications would be submitted to erect additional dwellings in the grounds of the public house. This is not the matter under consideration at this time. Any subsequent application would be considered on its own merits and in compliance with the provisions of the development plan and potential for future applications cannot be used to refuse the current application.

The issues are finely balanced. The applicants have a right to the permission under planning law unless there are material considerations that dictate otherwise. Notwithstanding other matters raised, the overriding issue is whether the change of use of the pub to a single dwelling would result in a loss of a local community facility and whether it would be reasonable to refuse permission on that basis. Had the current group of owners not bought the pub all those years ago, then the Authority would not have been faced with this application, the pub would have been long gone. The owners have undertaken steps to show that the potential long-term future of the pub is not good given the lack of a bus route, quiet nature of the road past the pub and the presence of competition in the locality. On the basis that the pub has been preserved as a local community facility for 18 years, and the lack of potential for increased trade identified in the CAMRA assessment, then it is considered that the refusal of permission in order to encourage the retention of the pub would be difficult to justify on the basis of existing planning policy.

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. Prior to the first occupation of the building as a dwelling, details of the treatment of the curtilage of the existing public house in terms of landscaping, parking arrangements for the dwelling and the siting of any garden buildings together with a schedule for the implementation of the works shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in accordance with the submitted scheme and schedule.  
  
Reason: In order to ensure that the appearance of the property as a whole is addressed in the interests of the amenity of the occupiers of adjacent dwellings.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no buildings and no gates, walls, fences or other means of enclosure shall be erected on the application site, except as authorised under the submitted application or by any other condition attached to this permission, without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.  
  
Reason: To ensure that any such structures are appropriate to the character and appearance of the building.



**Item**                **1.5**

**Reg. No.**           **9/2008/0411/F**

**Applicant:**

Mr T Eyley  
C/O Agent

**Agent:**

Mr. S. Greaves  
S. G. Design Studio  
202 Woodville Road  
Hartshorne  
Swadlincote  
Derbyshire  
DE11 7EX

**Proposal:**           **The erection of two dwellings at 12 Talbot Street  
Church Gresley Swadlincote**

**Ward:**                **Gresley**

**Valid Date:**        **04/04/2008**

**Reason for committee determination**

The application is brought to Committee at the request of Councillor Southerd as local concern has been expressed about a particular issue and the committee should debate the issues in this case which are very finely balanced.

**Site Description**

The application site forms the side garden of No. 12 Talbot Street and an area of garden land formerly belonging to 144 Regent Street. The site is situated within the residential area of Church Gresley. The site is bordered to the rear by the rear gardens of properties fronting Regent Street which are some 45m in length. No. 26 Talbot Street, a semi-detached dwelling occupies the adjoining site. The surrounding house types are of a traditional design with gabled roofs.

**Proposal**

The application proposes the erection of two dwellings with parking to the side. The existing hedge to the front of the site would be removed to achieve the required visibility site lines. A 1.9m fence would be erected to the rear and side boundaries. Amended plans have been received providing the required visibility sightlines and parking provision.

9/2008/0411/F

Land adjacent to 12 Talbot Street, Church Gresley



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## **Applicants' supporting information**

A Design and Access Statement has been submitted with the following points:

- Due to the width of the application site a pair of semi-detached dwellings with a wide footprint would suit the street scene better than one dwelling maintaining the 'terraced feel' of the street scene.
- To meet the requirements of the Highway Authority tandem parking is proposed for both the existing and proposed dwellings.
- The dwelling would be of traditional appearance and brick construction to reflect the vernacular architecture on Talbot Street.
- The location of the proposed dwellings would eliminate the possible 'over-crowding' of the street scene with the inclusion of the drive to both sides.

## **Planning History**

Outline consent for a single dwelling was permitted in 2007.

A previous application for two dwellings on the site was withdrawn in April 2008 following concern expressed about the amenity space to the rear of Plot 2 which was situated between 2m and 5m of the boundary hedge of the neighbouring garden at No. 144 to the rear of the site. The current application site has been extended to include a 5m strip of land to the rear of the site which previously formed part of the garden of No.144.

## **Responses to Consultations**

No letters of objection have been received.

## **Responses to Publicity**

The County Highway Authority has no objection.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Housing Policies 4 & 11

## **Planning Considerations**

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

- The principal of development
- The amenity of the proposed and neighbouring dwellings
- Appearance
- Highway safety

## **Planning Assessment**

The principal of residential development on the site has previously been established with the grant of outline consent.

The inclusion of an additional area of land to the rear of the site in the current application has allowed for the increase in the size of garden to the rear of both plots. The depth of the garden to Plot 2 is 7m narrowing to 4.1m with additional garden space to the side. The provision of amenity space for both properties is now acceptable.

The main windows to the proposed dwellings would be to the front and rear with blank gable ends. The neighbouring property, No. 26 Talbot Street, has a kitchen window to the side facing towards the gable end of Plot 2, the main kitchen window being situated to the rear of this neighbouring property. For the purpose of the Council's Supplementary Planning Guidance this side window is considered as secondary and as such is only afforded protection on its merits. There are no properties situated directly to the rear of the site and the proposal is not considered to have any adverse impact on the amenity of the surrounding properties.

The surrounding properties are traditional in appearance with gabled roofs. The proposed dwellings would be similar in appearance with a wider gable width more akin to that of the terraced properties on the opposite side of the road. The window detailing of brick soldier courses and plain arches reflects that of the surrounding properties. The appearance and design of the proposal is in keeping with the surrounding area and complies with the requirements of the development plan.

On the advice of the Highway Authority the scheme has been amended to provide sufficient off-road parking provision for both the existing and proposed dwellings and to provide the required visibility splays within the site.

The scheme is therefore considered acceptable and would make a positive contribution to the area.

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. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.  
Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.
3. 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.

4. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

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

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

6.
  - A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
  - B) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
  - C) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
  - D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

7. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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

8. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 208-22.01 Rev C and 208-22.02 Rev C received 30 April 2008.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

9. Prior to any other works commencing, an access and parking for two vehicles shall be provided within the site curtilage of the existing dwelling. The access shall be laid out in accordance with the revised application drawing, having a minimum width of 3.2m, being provided with 2m x 2m x 45° pedestrian intervisibility splays and 2m x 33m visibility sightlines, the area forward of which shall be cleared and maintained thereafter clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge. The access shall be surfaced in a solid bound material for at least 5m into the site from the highway boundary.

Reason: In the interests of highway safety.

10. Prior to any other works commencing (excluding condition 9 above), the new accesses to the application site shall be provided. The accesses shall be laid out in accordance with the revised application drawing, having a width of 3.2m, being provided with 2m x 2m x 45° pedestrian intervisibility splays and 2m x 33m for plot 2 and 2.4m x 33m for plot 1 visibility sightlines, the area forward of which shall be cleared and maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

11. Prior to the occupation of the first dwelling, space shall be provided within each plot curtilage for the parking of two vehicles, laid out in accordance with the application drawing, paved in a solid bound material and maintained thereafter free of any impediment to its designate use.

Reason: In the interests of highway safety.

#### 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).

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice

as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm](http://www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm)

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [dan.calverley@south-derbys.gov.uk](mailto:dan.calverley@south-derbys.gov.uk).

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months 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.