

REPORT OF THE DIRECTOR OF COMMUNITY AND 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).

1. PLANNING APPLICATIONS

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

Reference	Item	Place	Ward	Page
9/2015/0396	1.1	Newhall	Newhall	14
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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 Director of Community and 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 Director of Community and 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. 9/2015/0396/FX

Applicant:
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Agent:
Mr Michael Congreve
Bi Design Architecture Ltd
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Repton
DE65 6GF

Proposal: **THE ERECTION OF 6 3-BED DWELLINGS ON LAND TO
THE REAR OF 145 OVERSETTS ROAD NEWHALL
SWADLINCOTE**

Ward: NEWHALL

Valid Date: 30/06/2015

Members will recall deferring this item at the meeting of 27 October 2015 for a visit to the site. The report is otherwise unchanged.

Reason for committee determination

The application is reported to Committee at the request of Councillor Bambrick and because a local concern has been expressed about a particular issue and unusual site circumstances should be considered by committee.

Site Description

This 2,623 square metre site is located to the rear of The Crown public house on Oversetts Road, Newhall. The public house has a large car park to the side and rear and this site is currently partially an unused grassed area and formal car park adjacent to the western boundary. The site slopes steeply down to the west with a 6m change in levels from the public house access to the western boundary. Rear gardens of two storey properties on Warren Hill and Oversetts Road bound the site with 2 m high fencing to the south, west and north.

Proposal

Full planning permission is sought for six semi-detached dwellings with 14.5-17m rear private gardens and two car parking spaces per dwelling to the front. The dwellings would have shared mono-pitched porches on the front with eaves heights of 4.9m and ridge heights of 7m. Single storey sections to the rear would extend a further 2.5m from the main two storey dwelling serving the kitchens. Twenty one car parking spaces would

9/2015/0396 - Land to rear of 145 Oversetts Road, Newhall DE11 0SN



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be retained for the public house together with the play area adjacent to the southern boundary.

Applicants' supporting information

The Design and Access Statement describes the site and considers the large car park to be far in excess of that required for a business located within the urban area. The proposal has been designed to achieve 21 metres between existing and proposed properties in line with the Council's space standards. Due to the significant change in land levels, low eaves and ridge heights are proposed in order to prevent the dwellings being overbearing on existing dwellings. The appearance of the dwellings is considered to reflect the simple design of existing dwellings and buildings in the vicinity.

The Coal Mining Risk Assessment identifies that the site has been subject to past coal mining activity and potential risks relate to both deep coal seams and shallow depth workings. It recommends intrusive site investigations are undertaken.

Planning History

9/2015/0516 – The erection of a single storey extension to create a new function room, pending.

9/2007/0476 - The formation of a smoking area, granted 18/6/07

Responses to Consultations

The Highways Authority has no objection to the amended plan received which relocated the access slightly to the south to achieve adequate emerging visibility to the north. Conditions are recommended in respect of provision of a site compound, mud prevention, the access, parking and manoeuvring space.

Severn Trent Water has no objections subject to a drainage condition and informative regarding a public sewer that crosses the site.

The Coal Authority considers the Coal Mining Risk Assessment to be adequate and recommends a condition requiring intrusive site investigations be undertaken prior to commencement of development.

The Contaminated Land Officer recommends a condition relating to if contamination is found during development.

NHS Southern Derbyshire Clinical Commissioning Group considers that existing GP practices have capacity to manage the associated increased patient demand.

Derbyshire County Council has yet to respond on S106 contributions in terms of Education and Waste and this will be reported verbally at committee.

Responses to Publicity

One letter of objection has been received which relates to any reduction in the parking at the pub would increase on street parking in the vicinity especially when there are special events on.

Development Plan Policies

The relevant policies are:

Local Plan: H4, H11, T6 and RT4

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 17, 32 , 49, 56, 58,121, 196, 197
- National Planning Practice Guidance (NPPG) 26

Planning Considerations

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

- Principle of development
- Highways Issues
- Design and Residential Amenity

Planning Assessment

Principle of development

The site is located within the urban area of Newhall and as such is considered a sustainable location for residential development. The site is substantially surrounded by development and is not considered to make a valuable contribution to the character or environmental quality of the area. It is not highly visible from the street due to the drop in land levels and the majority of the land has been taken up with car parking.

Design and Residential Amenity

The proposed semi-detached dwellings are similar in design to existing properties in the vicinity which reflects the local character. They would be viewed in context with the fairly modern properties adjacent to the boundaries rather than the terraced properties on Oversetts Road. The land levels of the proposed properties would be 2.2-2.3m higher (based on existing levels) than those of the existing properties adjacent to the western boundary and as such greater distances are required in order to comply with the Council's space standards. An amended plan that has increased the distances between windows required by the space standards by a further 20% has been received and thus the proposal complies with guidance. Further landscaping at the boundary will also ensure better separation.

The proposed dwellings are therefore considered to be of a suitable scale and character in accordance with Housing Policy 4. The amenities of both the existing and proposed dwellings are considered to be adequate and accord with Housing Policy 11.

The Highways Authority considers the parking and access to be adequate in terms of Highways safety in accordance with Transport policy 6.

Residential development on this site is considered to be acceptable in principle as it is considered to be sustainable development within the urban area in close proximity to services and accessible by a choice means of transport. National guidance within the NPPF advises of a 'presumption in favour of sustainable development'. There are no significant adverse impacts on the character of the area or residential amenity.

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

That subject to the receipt of a signed unilateral undertaking for the provision of £6,714 open space, £3,960 for outdoor facilities and £2,196 for built facilities (Total open space £12,870); **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 ref. 02D; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. 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.
4. Before any works involving the construction of any dwelling commences a scheme for the disposal of surface and foul water shall be 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.
5. Before any works involving the construction of any dwelling commences 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. The work shall be carried out in accordance with the approved details.

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

6. The development shall be implemented in accordance with the recommendations of the submitted Coal Mining Risk Assessment, in particular with regard to intrusive site investigation works (which shall be undertaken prior to the commencement of any other development) and any resultant remedial works identified by the site investigation.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken and recognising the Council's opinion that this element of the development could lead to unacceptable impacts even at the initial stages of works on site.

7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), prior to the erection of boundary treatments plans indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; 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 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.

9. Before any works involving the construction of any dwelling commences 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.

10. Before any works involving the construction of any dwelling commences space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: In the interests of highway safety.

11. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.
Reason: In the interests of highway safety.
12. Before any works involving the construction of any dwelling commences, the new access shall be formed to Oversetts Road. The access shall have a minimum width of 4.8m, be constructed as a dropped vehicular crossover, provided with 2m x 2m x 45° pedestrian intervisibility splays and 2.4m x 33m visibility sightlines in each direction. The area forward of the sightlines shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 600mm in height relative to road level.
Reason: In the interests of highway safety.
13. Prior to the occupation of any new dwelling, the existing access shall be reinstated as footway in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority.
Reason: In the interests of highway safety.
14. Prior to the first occupation of any dwelling the car parking and manoeuvring space associated with the public house and the new dwellings shall be laid out in accordance with the revised application drawing (1194H 02D) and maintained thereafter free of any impediment to its designated use.
Reason: In the interests of highway safety.
15. Prior to the occupation of any of the dwellings hereby permitted a landscaping scheme along the western boundary shall be submitted and approved in writing by the Local Planning Authority. The landscaping shall be implemented in accordance with the approved scheme and shall be planted in the same or immediately following planting season (November to March) from the date of this permission.
Reason: To protect the residential amenity of properties adjacent to the western boundary.

Informatives:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website

http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, email ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.

Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email - es.devconprocess@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

Item **1.2**

Reg. No. **9/2015/0291/OX**

Applicant:
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& Development Ltd
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Leeds
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Agent:
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Clarendon Planning
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LS12 1BE

Proposal: **OUTLINE PLANNING PERMISSION (ALL MATTERS**
 RESERVED) FOR RESIDENTIAL DEVELOPMENT OF
 LAND AT SK3824 2899 ASHBY ROAD MELBOURNE
 DERBY

Ward: **MELBOURNE**

Valid Date: **07/04/2015**

Reason for committee determination

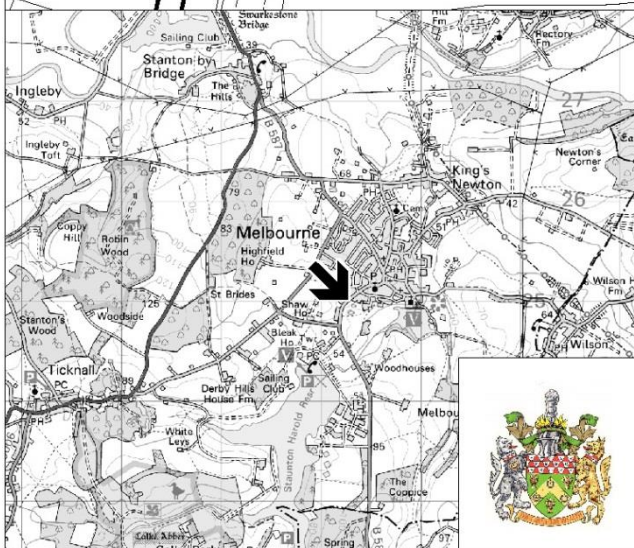
The application site is outside of the village confine (as defined by Housing Policy 5 of the Local Plan) and represents development in the countryside not in accordance with Local Plan Housing Policy 8.

Site Description

The site is located on the south-western edge of Melbourne. The subjects are bound by Ashby Road and established housing to the west, established housing to the north, woodland to the south and woodland and a former quarry to the east. The site is well contained from the wider landscape by existing woodland.

The site backs on to the former quarry which now forms part of Lambert House and is currently used as allotments (privately owned) within the ownership of Melbourne Hall Estate.

The site extends to approximately 0.36 hectares and comprises a largely overgrown area which was formerly used for allotments. At present only a single allotment plot remains alongside a builder's storage yard and a wider semi-derelict area.



South Derbyshire District Council. LA 100019461. 2014

Proposal

The application is in outline with all matters reserved for the erection of 5 detached single storey to one and half storey dwellings with associated access and parking/turning space.

The intention is that existing trees/woodland to the eastern and southern boundaries of the site are retained to maintain the site's sense of enclosure.

The existing hedgerow would be cut back but retained other than for access points into the site whilst the wide grass verge would remain to allow pedestrian movement to link with existing footpaths.

Applicants' supporting information

Planning Statement

This describes that the key element of importance on the east side of Ashby Road when approaching from the south is the hedgerow and scope for views into the Conservation Area. The potential for views exists only immediately after the Melbourne Arms where hedgerow is low on the eastern side of the road. Thereafter, established tree cover obscures any view eastwards into the Conservation Area. At present, the site is semi-derelict space which does not contribute to the character of the adjoining Conservation Area.

In terms of national and local planning policy, the site can be considered a deliverable small-scale housing proposal which within an accessible site which can contribute family housing within an area of housing need.

Planning History

None

Responses to Consultations

The County Highways Authority has no objection in principle subject to conditions including acceptable visibility splays from the access points.

The County Archaeologist states that the site lies adjacent to the former Lambert Quarry (HER23211) worked in the late 18th century but there are no proposed impacts to the historic quarry site and is well outside the historic core of Melbourne, therefore the proposals would have no archaeological impacts and no conditions are required.

The Environmental Protection officer has advised that the site is on and within influencing distance of a significant area of land formally subject to mining and quarrying activities. This has the potential to present risks to site workers, end users and ecological receptors, in view of this, conditions are recommended to identify and remediate any potential land contamination on the site.

Severn Trent Water has no objection to the proposal however the applicants would need to discuss development with the Company as a public sewer is located within the site.

Responses to Publicity

Melbourne Civic Society has no objection to the development and recognises this in light of the 1995 appeal, NPPF guidance and changed nature of Ashby Road; therefore it would now be reasonable to develop this unused site. Currently eastern end of site is blighted by parked vehicles belonging to residents opposite, which is unsightly and resulted in fly tipping along the hedge. However five large properties does not respect the character of Ashby Road, something more modest in scale is preferred, access is close to a bend and potentially hazardous, but the site could be served by one access, the eastern side of the road should then be kerbed and pavement added to avoid parking on the verge and ensure pedestrians can enter and leave without walking along the carriageway.

Four letters/emails with comments raising concerns and 15 letters/emails of objection have been received from local residents, which can be summarised as:

- a) No objection in principle but concerns on parking as the current strip of land along the road is used regularly for parking vehicles (8+), the development would force cars to park close to busy junctions.
- b) Insufficient parking provided on the development site
- c) Lack of parking along Ashby Road means cars park on both sides and make it difficult to negotiate resulting in traffic problems
- d) On the edge of the Conservation Area
- e) Close to a bend; concern for highway safety
- f) Sheer drop into quarry is a danger to children
- g) Site is on a higher site to other properties on Ashby Road, therefore new properties would overlook existing houses
- h) Amenity of green verge for parking would be lost
- i) Already lost a lot of trees and greenery from previous developments
- j) Increased noise
- k) Loss of wildlife haven and allotment land used by the community
- l) Outside of the structure plan and not identified in the Local Plan Part 1
- m) Ribbon development
- n) Would alter the character of Ashby Road and extend urban sprawl ruining the beautiful approach to Melbourne
- o) The site was not identified with the councils SHLAA document.
- p) Struggling for spaces at the doctors surgery and primary school
- q) Lack of detail provided in application
- r) Site is not vacant as detailed in the application form but is still used as allotments; rental agreements up to March 2016 have been signed.

Development Plan Policies

South Derbyshire Saved Local Plan Policies include: Housing Policies 5, 8 and 11, Environment Policies 1, 9 and 12 and Transport Policy 6.

Emerging Local Plan Part 1 2014:

S1 – Strategic Growth Strategy

S2 - Presumption in Favour of Sustainable Development

S4 – Housing Need

S6 - Sustainable Access

H1 - Settlement Hierarchy

SD1 – Amenity and Environmental Quality

BNE1- Design Excellence
BNE2 - Heritage Assets
BNE3 – Biodiversity
BNE4 - Landscape Character and Local Distinctiveness
INF2 - Sustainable Transport

Local Guidance

Housing Design and layout SPG
Melbourne Conservation Area Character Statement

National Guidance

National Planning Policy Framework (NPPF), relevant paragraphs include:

Paras 6-10 (Achieving sustainable development)
Paras 11-14 (The presumption in favour of sustainable development)
Para 17 (Core principles)
Chapter 6 (Delivering a wide choice of quality homes)
Chapter 7 (Requiring good design)
Chapter 12 (Historic Environments)
Para 196 & 197 (Determining applications)

NPPG ID26 (Design), 21a (Conditions), 23b (Obligations), 18a (Historic environment)
ID3 (Housing land availability)

Planning Considerations

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

- the principle of development
- the visual impact of the development on the Conservation Area
- the impact on neighbours
- highway safety

Planning Assessment

The principle of development

The application is in outline with all matters reserved therefore it is only the principle of development that is being considered, however the LPA must be satisfied that access into the site can be achieved.

The application has been revised in response to concerns raised by the LPA and local residents with regards to the scale, however it must be stressed that design, scale and layout would be dealt with at a reserved matters stage.

Local Plan Housing Policy 5 defines Melbourne as a village settlement, a key service village under the emerging Local Plan Part 1, where residential development would be permitted if it is appropriate to the scale and character of the settlement and is within the village confines. The site is not within village confine/boundary (as indicated in the current Local Plan Proposals Map) and is therefore in principle not acceptable. Notwithstanding this, the justification for the policy does note that in some circumstance

there is the possibility of development within the 'wider physical confines' of the village. It states that there may be circumstances where small extensions beyond the existing built framework but within its wider physical confines are acceptable. In such cases housing development is permitted provided that it is in keeping with the scale and character of the village. In this instance as a semi vacant site which is historically, physically and socially linked to the village, well contained and surrounded on two sides by development, the principle of developing the site is considered acceptable.

Although the proposal fails to comply with all the criteria outlined in Housing policy 8 for housing in the countryside, as it is not necessary to the operation of a rural based activity and is not a replacement dwelling, the site is however, well related to existing dwellings due to its edge of village location.

It is accepted that the general location of this development is in a "sustainable location" in terms of its proximity to services, transport, amenities etc.

Furthermore, Para 14 of the NPPF states that 'where the development plan is absent, silent or the relevant policies are out of date' the local authority should grant permission unless there are any adverse impacts in doing so that would 'significantly or demonstrably outweigh the benefits of the scheme'.

One of the difficulties in assessing the principle of development in this location is the current level of uncertainty surrounding local policies in light of the NPPF, however it must be clear that this does not automatically mean that any and every application would be permitted, each scheme must still be tested against the prevailing policies and if harm is found, it remains the case that, on balance, applications can be refused.

Until such time when the council can demonstrate a 5 year supply of deliverable housing land, paragraph 14 and 49 of the NPPF are applicable whereby there is a presumption in favour of sustainable development. Therefore in light of the NPPF the relevant local plan policies cannot be considered up-to-date. The implication of this position is that applications such as this one should primarily be considered against the policies in the NPPF with less weight being given to local policies such as these which control the supply of housing.

It is of importance that there is pressure to provide new housing in the district in line with the Government's agenda. This is a small site which would only provide a very limited amount of housing compared to the overall need. However unless the development would cause significant harm, it would be difficult to resist a modest development in this locality.

It should be noted that para 14 specifically states that the presumption in favour of sustainable development applies unless there are material considerations that indicate otherwise.

The proposed development would represent development in the countryside and although Saved Housing Policy 8 can be afforded little weight due to the lack of up to date Local Plan and consistency with the NPPF, its criteria can be used as a foundation on which to assess the application. The proposal fails to comply with all the criteria outlined in Housing Policy 8, as it is not necessary to the operation of a rural based activity, and is not a replacement dwelling. However, the site is well related to existing dwellings due to its edge of village location. The development fails to comply with one of

the set criteria for Saved Environment Policy 1 (necessity to a rural based activity). However, as referenced above, under the guidance of the NPPF the development can be deemed unavoidable in the context of that policy, due to the lack of a 5 year land supply.

Impact of the development on the Streetscene and Conservation Area

The applicant is proposing to develop five detached 'L' shaped properties which it is envisaged would be single and one and half storey properties, no garages are proposed to ensure that an element of spaciousness is preserved within the site. A lower height as detailed in the revised indicative plan would also ensure that the properties remain subservient to the mature woodland setting that borders and encompasses the former Lambert Quarry, it is this landscape setting that acts as a buffer between the application site and Conservation Area.

The existing site is partly used as allotments although not all allotments are being utilised, the site is not a council allotment site but privately owned and rented out, therefore there are no policies protected this space as a community facility/space. The site borders the village confine and would follow on from the existing line of properties. The mature landscape to the east creates a bookend to the development and village; this landscape would also ensure the development is not visible from the nearby historic parkland of Melbourne Hall or that part of the Conservation Area.

The indicative plans details features such as gable projections, low overhanging eaves, arched heads and brick as the primary material, all of which are characteristics of the local built environment, this is a positive attribute that should be brought forward in any reserved matters application as it would preserve the character and appearance of the surrounding streetscene and nearby Conservation Area. Policy H11, EV1 and EV12 require new development to reflect and safeguard the character of the surrounding area and to preserve or enhance the character of the Conservation Area.

The design and access statement provides the analysis and direction for the development and has considered the local context and the wider environment and proposes to create a development which extends the existing line of buildings rather than create a detached development which would appear visually disjointed on this edge of village location. The Design and Access Statement states dwellings would not be greater than 1 ½ storeys which would reflect the scale of nearby development, whilst preserving the visual amenity of the wider landscape setting in this locality which is considered to comply with Policy EV1. This would need to be re-assessed at a reserved matters scale when a definitive scale, layout and appearance are provided.

Overall the development would not cause visual harm to the character of the local streetscene and would not be readily visible from the Conservation Area; the indicative scale and design would also allow the dwellings to fade into the backdrop of the woodland setting. As a result the proposed development would have a neutral impact on the character and appearance of the site as well as the wider setting, thus preserving the character and appearance of the Conservation Area and the historic park and garden of Melbourne Hall in accordance with Local Plan Policy EV1 and EV12.

Residential Amenity

Although the reserved matters application would address the detail of siting and design it is probably worth considering the illustrative layout submitted as a guide.

The proposed dwellings would be located at the closest point (plot 3) 16.5 metres away from the properties opposite on Ashby Road. However this would be the side elevation of the proposed dwelling and with Ashby Road in between, the guidelines state that normal distances can be relaxed. The properties would also be interrupted by hedgerow and parked vehicles. All other plots would be beyond the 21 metre minimum distance between windows as detailed in the LPA Housing design and layout SPG.

Plot one would be between 9 and 10 metres from the neighbouring bungalow, however as no floor plans have been provided it is not possible to determine if this is a blank elevation or not, however it is noted that the proposed dwelling detailed on the indicative plans as plot one is single storey and any windows would overlooking the boundary treatment and not the neighbouring property.

Concerns have been raised regarding the sheer drop of the quarry to the rear of the site, this forms the edge to the site and any reserved matters application would include boundary treatments to the enclose and subdivide the sites, thus ensuring adequate safety for future occupiers. The properties would have sufficient amenity space, some of which would be overshadowed by the trees within Lambert Quarry; however this is not considered to cause harm to the amenity of future occupiers due to the level of space provided and the relatively open character of the site.

The development can be considered to be in accordance with the requirements of Local Plan Policy H11 and EV9.

Highway safety

Concerns have been raised with regards to access and existing parking levels. The County Highway Authority is satisfied that accesses can be achieved with the relevant visibility splays as demonstrated by the illustrative drawings. However access would formally be considered at a reserved matters stage. Conditions have been attached which draw the applicants attention to the visibility splays required.

The indicative plan details that each plot can accommodate 4 vehicles which would be sufficient for dwellings up to 4 bedrooms; the plan also demonstrates that turning can be achieved within the site to ensure vehicles enter and exit in a forward gear.

The verge to the front of the application site is currently used for the parking of vehicles, this is an informal arrangement and not a designated parking area, and the verge would be in either the Highway Authorities ownership or the landowner of the site. Use of this verge for parking could be prohibited by either party without notification to residents whether development came forward or not.

Conclusion

In conclusion the utilisation of the site for residential development is sustainable and it has been demonstrated that in weighing up the relevant factors of the case, as examined in the foregoing analysis, the balance falls in favour of granting permission.

Recommendation

GRANT permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the layout, scale, access, appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. The development hereby permitted shall be carried out in accordance with plans/drawings; No. 10 received on 7th April 2015; unless as otherwise required by condition attached to this permission or allowed by way of an approval of reserved matters or a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

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

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

5. Prior to being incorporated in the development 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 dwellings shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

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) If required by the conceptual site model, no development shall take place until monitoring at the site for the presence of ground 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 any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no dwelling shall be occupied 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.

9. Any reserved matters application shall include the submission of a landscape and ecological management plan (LEMP) detailing long-term design objectives for nature conservation, management responsibilities and maintenance schedules for all landscape areas which are not in the ownership of individual properties to be approved in writing by the local planning authority. The LEMP should be carried out as approved.

Reason: In the interests of ecology.

10. Before any other operations are commenced, new vehicular access(es) shall be formed to Ashby Road, located, designed, laid out, constructed and provided with 2.4m x 43m visibility splays in both directions, all as agreed in writing with the Local Planning Authority, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in

height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety, specifically to ensure that safe site access is available.

11. Before any other operations are commenced (excluding condition 10 above and demolition/ site clearance), space shall be provided within the site curtilage for the storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety specifically to ensure plant and construction vehicles can be accommodated on site.

12. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of residents' and delivery vehicles, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety, specifically to ensure that vehicles can be safely accommodated off the public highway.

13. Before the first occupation of the premises, any existing vehicular accesses along the site frontage which are not to be utilised to access any of the premises shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway (or verge) in a manner to be agreed in writing with the Local Planning Authority in consultation with the County Highway Authority

Reason: In the interests of highway safety.

14. No building shall be occupied until a sustainable drainage scheme, which shall include measures for management and maintenance, for the site has been completed in accordance with details first submitted to and approved in writing by the local Planning Authority. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: In the interests of flood protection and highway safety.

15. No gates or other barriers shall be erected within 5m. of the highway boundary and any gates elsewhere shall open inwards only.

Reason: In the interests of highway safety.

16. Bin stores shall be provided within private land at the entrance to shared private accesses, in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority, to prevent refuse bins and collection vehicles standing on the street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In the interests of highway safety.

Informatives:

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.

Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property. No materials arising from the demolition of any existing structures, the construction of new buildings nor any material from incidental and landscaping works shall be burnt on the site.

The developer shall comply with the BRE Code of Practice to control dust from construction and demolition activities (ISBN No. 1860816126). The requirements of the Code shall apply to all work on the site, access roads and adjacent roads. The phased risk assessment should continue be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A. 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.

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 http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp. 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 Environmental Protection Officer (contaminated land) in the Environmental Health Department: thomas.gunton@south-derbys.gov.uk.

Further guidance can be obtained from the following:

- CLR 11: Model Procedures for the Management of Contaminated Land
- CLR guidance notes on Soil Guideline Values, DEFRA and EA
- Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
- BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).

The application for reserved matters should take into account the prevailing open nature of the site and restrict eaves and ridge heights as shown on the illustrative drawings submitted.

Item **1.3**

Reg. No. **9/2015/0077/FH**

Applicant:
Mr Troy Lee
Church Barn
Chapel Street
Smisby
Ashby De La Zouch
LE65 2TJ

Agent:
Mr Anthony Rice
Urban Designs Ltd
Suite 6
Anson Court
Horninglow Street
Burton On Trent
DE14 1NG

Proposal: **THE CONSTRUCTION OF A DETACHED GARAGE AT**
 CHURCH BARN CHAPEL STREET SMISBY ASHBY DE
 LA ZOUC

Ward: **REPTON**

Valid Date: **29/01/2015**

Reason for committee determination

This application is brought before committee at the request of Councillor Smith 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

Church Barn is a new build single storey dwelling, with accommodation in the roof space, attached to a curtilage outbuilding of the Grade II listed Pitts Farmhouse in the Smisby Conservation Area. Being attached to an outbuilding which fronts and which has level access off Main Street, the application property is located approximately 3 metres below the highway level of Chapel Street.

Proposal

The proposal is for the erection of a single storey detached garage on land within the curtilage of the dwelling that is adjacent to and has level access to Chapel Street.

Applicants' supporting information

There is no supporting information since Design and Access Statements are no longer a requirement for householder applications in a conservation area.

9/2015/0077 - Chapel Barn, Chapel Street, Smisby LE65 2TJ



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South Derbyshire District Council. LA 100019461. 2014

Planning History

9/2002/1338/F – The erection of a detached dwelling with access from Chapel Lane on land forming part of the rear garden of Pitts Farmhouse, Main Street, Smisby – approved with conditions 12/02/03.

9/2006/0940/L – detached dwelling with access from Chapel Lane – Listed Building Consent granted with conditions 04/10/06.

Members will recall that the previous scheme (9/2014/0964/FH) was reported at Planning Committee on 16th December 2014 and it was resolved that the application be refused on the following grounds:

1. The proposed detached garage would have an adverse impact on the character and appearance of the Conservation Area by virtue of its location and scale, contrary to Local Plan Policy Environment 12, Emerging Local Plan Policy BNE2 and paragraph 132 of the NPPF.

2. The proposed detached garage would be detrimental to the amenity of Fir Tree Cottage by virtue of its proximity and scale, contrary to Local Plan Policy Housing 13, emerging Local Plan Policy SD1 and the Core Planning Principles of the NPPF.

The application was subsequently dismissed at appeal on the grounds that the proposal would introduce a large double garage on land towards the front of the plot that would harm the living conditions of the occupiers of Fir Tree Cottage in terms of its visual impact and loss of daylight. The inspector cited that due to the change in levels between the 2 properties and its proximity to the shared boundary, the garage would have an oppressive and overbearing impact on the ground floor rear facing rooms and garden of the neighbouring dwelling and would restrict levels of daylight received into the kitchen and lounge windows.

The inspector went on to say that the proposal would preserve the character and appearance of the Smisby Conservation Area as it would be orientated with its side elevation facing the road thereby reducing its bulk, massing and visual impact when viewed from Chapel Street. Furthermore, the garage would be viewed against Fir Tree Cottage, a substantial 3-storey property to the east, and it would be comparable in height and of a similar pitched roof design to the existing outbuilding at Fir Tree Cottage which directly adjoins the road. He considered the scale, design and orientation of the garage would maintain the character and appearance of the area.

Responses to Consultations

Smisby Parish Council states that the amended plans, although for a single storey garage, suggest no excavation is required, yet the roof height of the garage is still above the main barn roof height, which was the key factor to our objections as a SPC before. While the building is smaller, it still goes against the initial planning restrictions that were placed on Church Barn so the main issue still has not been overcome. We would suggest that a small excavation would be preferable or reduce the height of the garage roof.

Responses to Publicity

No responses have been received on the amended proposal (drawing ref 2014_349_06B, dated 12th October 2015) on which a 10 day reconsultation was carried out in line with the Council's Neighbour Notification Policy.

Development Plan Policies

The relevant policies are:

Local Plan: Saved Housing Policy 13 and Saved Environment Policies 12 and 13 of the Adopted Local Plan.

Emerging Local Plan: Policies S2, BNE1 and BNE2.

National Guidance

National Planning Policy Framework (NPPF) paragraphs 11-14 (presumption in favour of sustainable development), 57, 58 and 61 (requiring good design), 186 and 187 (positive decision-taking) and 196 and 197 (determining applications) and Chapter 12 (Conserving and enhancing the historic environment).

National Planning Practice Guidance (NPPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment).

Local Guidance

- Extending your Home Supplementary Planning Guidance – May 2004
- Smisby Conservation Area Character Statement – Adopted November 2014
- Historic South Derbyshire Supplementary Planning Guidance – November 1991

Planning Considerations

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

- The impact of the proposed development on the amenities of the neighbouring properties;
- The impact of the proposed development on the character and appearance of the conservation area; and
- The impact of the proposed development on the setting of the Grade II listed Pitts Farmhouse.

Planning Assessment

The impact of the proposed development on the amenities of the neighbouring properties

Given the recent appeal inspector's main findings this is now the test for this application.

The proposed garage would be a non-habitable single storey structure set back from the existing highway edge boundary of the site, which consists of a 1 metre stone wall with a 2 metre high trimmed hedge in front of it, by approximately 5 metres.

The roof pitch of the proposed garage would match that of the single storey frontage outbuilding to the east neighbour (Fir Tree Cottage). The garage would be adjacent to the rear fence line of the parking area, orientated side on to and with its roof slope sloping away from the highway. It would be situated 1.8 metres away from the rear garden boundary of Fir Tree Cottage at its closest point, 2.2 metres at its furthest.

There is a slight change in the existing ground levels between the application site and the adjacent neighbour (Fir Tree Cottage) with the application site being approximately 0.4 metres above the garden level of this neighbour. As the proposed garage would be a single storey structure, of a narrow width and situated to the rear of the parking area and set back from the boundary with the neighbour, it would not overshadow the main ground floor primary windows of the neighbour.

There would be no window openings in the proposed garage elevation that faces the neighbour's garden and as such privacy between these neighbours would be preserved.

As such the proposal conforms to the Council's SPG, Saved Housing Policy 13 of the Adopted Local Plan and the emerging plan in that it would not adversely affect the amenities of the neighbouring properties.

The impact of the proposed development on the character and appearance of the conservation area

The proposed garage would have the same roof pitch and be at the same ridge height as the single storey detached outbuilding associated with Fir Tree Cottage. This outbuilding sits forward of the principal elevation of Fir Tree Cottage and is adjacent to the footpath edge. The proposed garage would be set back approximately 5 metres from the highway edge and be hidden from view behind Fir Tree Cottage on the westerly approach along Chapel Street. On the approach from the east the proposed garage would be viewed against the backdrop of Fir Tree Cottage and the properties beyond it.

The south side of Chapel Street is characterised by buildings close to the highway edge while the north side features detached house set back from the highway within generous plots. The proposed location and orientation of the building, close to the existing built form, would not be out of keeping with the current situation on the south side of the road and the openness of the west side of Chapel Street and the area beyond Church Barn would be largely maintained. The structure and pattern of the conservation area would therefore be preserved.

As such the proposal conforms to the Council's SPG, Saved Environment Policy 12 of the Adopted Local Plan and the emerging plan in that it would not adversely affect the character and appearance of the conservation area.

The impact of the proposed development on the setting of the Grade II listed principle building

The proposals would not impact on the principal views of the Grade II listed Pitts Farmhouse which has its frontage on Main Street and has therefore been judged not to adversely affect the setting of the listed building in conformity with Saved Environment Policy 13 of the Adopted Local Plan and the emerging plan.

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. 2014_349_06B, received 12th October 2015; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise 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.
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. Pointing of the proposed building 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.
Reason: In the interests of the appearance of the building(s).
7. 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 prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.
Reason: In the interests of the appearance of the building(s) and the locality generally.

8. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the root protection area of the Corsican Pine tree shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

9. There shall be no tipping or deposition of materials within the area fenced under condition 9 above without the prior written authorisation of the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority.

Item **1.4**

Reg. No. **9/2015/0770/NO**

Applicant:
Mr Mark Sweet
Strata Homes Yorkshire Ltd
Quay Point
Lakeside
Doncaster
DN4 5PL

Agent:
Mr Mark Sweet
Strata Homes Yorkshire Ltd
Quay Point
Lakeside
Doncaster
DN4 5PL

Proposal: **ERECTION OF BALL STOP FENCING TO PERIMETER
OF FOOTBALL PITCHES ON RECREATION GROUND
AT CHESTNUT AVENUE MIDWAY SWADLINCOTE**

Ward: **MIDWAY**

Valid Date: **04/09/2015**

Reason for committee determination

The application is reported to Committee as the works are being undertaken on behalf of the Council.

Site Description

The site forms part of the community facility approved as part of planning application 9/2014/0158. The site consists of two football pitches and is bounded on all sides by residential properties.

Proposal

Consent is sought for the erection of ball stop fencing around the necessary perimeters of the site. The proposed fencing is designed to be erected where there is the most risk of balls landing in neighbouring gardens from the football pitches.

Planning History

9/2014/0158 - The erection of 66 dwellings and associated infrastructure, development of new community facilities and sports hall and car park with demolition of existing pavilion, and installation of new play area and two new football pitches – Approved with Conditions - 15/05/2014



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South Derbyshire District Council. LA 100019461. 2014

Responses to Consultations

The Coal Authority has no comments to make.

The County Archaeologist advises that the proposed works would have no archaeological impact.

The Council's Open Space Officer has requested amendments to extend the line of the fencing in certain areas and reduce the height of the fencing.

Responses to Publicity

Two neighbour comments have been received which can be summarised as:

- a) Concerns about the proximity of the ball stop fencing to the existing dwellings.
- b) The football pitch needs to be reduced to stop balls coming into neighbouring properties completely.
- c) "Prison fence" appearance of fencing next to peoples windows.

Five further neighbour comments have been received following a re-consultation on amended plans and the following points have been raised:

- a) It is unclear how far the fencing will be from Charleston Close and Claymar Drive.
- b) Fencing should be erected around Claymar Drive to prevent people using the area to access the site.
- c) Cosmetic fencing should be erected at Claymar Drive to stop people observing the sports at this point.
- d) The fencing is an eyesore and is "prison like" in appearance.
- e) People already use the properties on Ascott Drive as a short cut to the fields, causing damage to the properties fencing.
- f) There is no fencing proposed to the properties on Ascott Drive. Therefore, these properties are not protected from damage.
- g) The pitch has been reduced. However, if the pitch was not so centred in the site it would negate the need for the fencing, or would mean that the fencing could be positioned as far away from the residential properties boundaries as possible.
- h) 6m fencing is too high.
- i) It was presumed that a brick wall would be erected along the boundary to reduce damage to neighbouring properties fencing and to address flooding issues.

Development Plan Policies

The relevant policies are:

South Derbyshire Local Plan 1998 Saved Recreation and Tourism Policies R1 and R4.

Emerging Development Plan Policies (Submission Local Plan Part One) include:

- S2 – Presumption in Favour of Sustainable Development

National Guidance

- National Planning Policy Framework (NPPF) paragraphs
 - 9 - Purposes of Sustainable Development
 - 14 - Presumption in favour of Sustainable Development
 - 17 - Core Planning Principles
 - 56 - Requiring Good Design
- National Planning Practice Guidance (NPPG) ID 26 Design

Planning Considerations

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

- Principle of the fencing
- Height and position of the fencing
- Other issues

Planning Assessment

Principle of the fencing

Consent has previously been obtained for the use of the site as a community facility with football pitches as part of permission 9/2014/0158. The proposed erection of the ball stop fencing is to limit the number of balls that could potentially be kicked into the gardens of neighbouring residential properties and therefore, the principle of the fencing would be acceptable as it would result in better amenity value for local residents.

Height and position of the fencing

Amendments have been sought that reduce the pitch by 1m in width in order to accommodate the position of the fencing. This has enabled the fencing to be moved further away from the boundary of neighbouring properties and the fencing has been reduced from 6m to 4m in height. This helps to reduce the feeling of overbearance and overshadowing that was previously posed by the possibility of a 6m high fence.

The ball stop fencing is not a solid boundary treatment and allows light to pass through, therefore, there would not be an issue posed whereby the fencing could block out light to neighbouring properties and would not be visually harmful. The fencing would therefore be of an appropriate scale and would be well integrated with the neighbouring surroundings.

Other issues

It has been raised as a concern by local residents that the visitors to the facility may wish to park on the hammerhead of Claymar Drive in order to watch the sport, instead of using the allocated parking facilities, and that there should be boundary screening erected to obscure the view from this position and stop this from happening. There would not be the scope to request this as part of the application, as consent is sought for the erection of the proposed fencing and it would not be possible to use this as an

instance to address issues that are outside of the control of the application. On the basis that the facility accommodates sufficient parking for visitors on match days and that there is ample space available for viewing the sport within the facility, it would appear unlikely that this hammerhead would be used for this purpose and in addition, it would not appear to be reasonable to request that this area is screened.

Conclusion

The erection of the proposed fencing would result in better amenity value for local residents, as there would be fewer instances of balls being kicked into residents' properties. The fencing at 4m in height would be less visually intrusive and overbearing and would therefore comply with policies R1 and R4 of the Local Plan.

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 under Regulation 3/4 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. The development hereby permitted shall be carried out in accordance with plan/drawing Location Plan 01, received on 19th August 2015; plan/drawing 29148/02/01 Rev N (Amended Plan); and plan/drawing 29148/14/05 (Amended Plan); unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item **1.5**

Reg. No. **9/2015/0784/FH**

Applicant:
Mr K Roberts
7, Kingfisher Close
Mickleover
Derby
DE3 0UE

Agent:
Mr David Decamps
DWDesign
20 Rowditch Avenue
Derby
DE22 3LD

Proposal: **THE ERECTION OF AN EXTENSION AND ASSOCIATED
ALTERATION AT 7 KINGFISHER CLOSE MICKLEOVER
DERBY**

Ward: **ETWALL**

Valid Date: **26/08/2015**

Reason for committee determination

Councillor David Muller (ward member) has requested that the Planning Committee determine this application as local concern has been expressed. Councillor Muller feels the issues in the case are very finely balanced and that unusual site circumstances should be considered.

Site Description

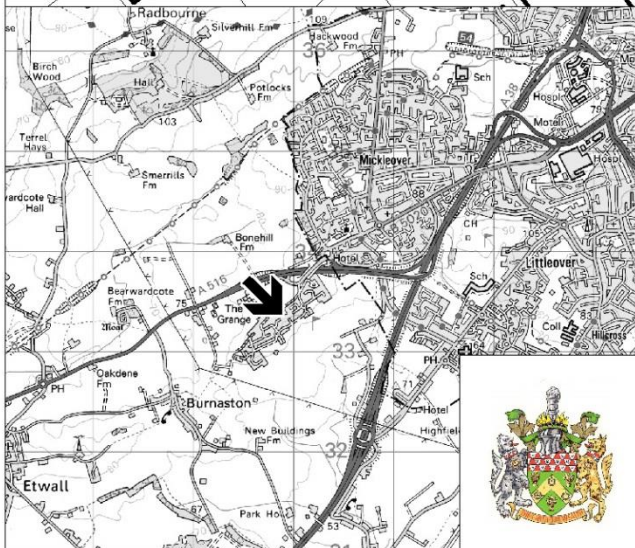
The property in question is a detached, two storey brick built dwelling with a north facing rear garden. There is a subtle variety of house types in the immediate with most affording both front and rear garden space. There is a change in levels across this and the immediate sites with No 7 occupying higher ground than that at No9 - a difference in levels of approximately 0.8m.

Proposal

The proposal is a two storey extension, built off part of the original 'rear' wall. Plans show it would be situated closest to the boundary with No9 Kingfisher Close projecting some 1.6m before turning 45 degrees to extend a further 0.9m. In total it extends 2.5m and would be 3.55m wide. Also shown on the plans is the fitting of a new window in the existing side elevation (first floor, bedroom 3).

Applicants' supporting information

None.



South Derbyshire District Council. LA 100019461. 2014

Planning History

None.

Responses to Publicity

A neighbour has raised concern (on two separate occasions). These are summarised here:

- The extension will completely overshadow and over dominate our property. The flank wall at No7 already protrudes beyond the rear wall of No9 by approximately six feet (1.83m). With the extension added this 'stagger' would be closer to 4.27m. This is on top of No7 being on higher ground (0.76m higher approximately). Additionally the existing flank of No7 is at angle as such the extension will bring the building very close to ours;
- Having read SPG 'Extending your Home' we believe the extension breaches the 45 degree angle rule;
- The extension of this size and height will significantly decrease the amount of light to our lounge, bedroom and garden. To lose light to those spaces will have a detrimental effect on our lifestyle and an infringement on our Right to Light;
- In summer, the patio would be put in shade, with the remainder of the garden also affected. The late evening sun will be blocked;
- The open aspect from the closest bedroom will be restricted by the dominance of the extension;
- Two of the proposed second floor windows will cause a loss of privacy, looking over the fence and into our property;
- Concerns over fire spread with the new windows close to the boundary;

Development Plan Policies

Local Plan Housing Policy13,
Supplementary Planning Guidance (SPG): Extending Your Home.

National Guidance

National Planning Policy Framework (NPPF)
National Planning Policy Guidance (NPPG)

Planning Considerations

The main issues central to the determination of this application are:
The impact on neighbours assessed against the Council's adopted standards.

Planning Assessment

The proposal is to extend to the rear of the property, a private area not easily seen from the public realm. Its two storey design is not wholly 'standard' but the SPG does allow some flexibility in respect of design on more modern houses where house types 'are not all the same'. Furthermore, given its relatively modest massing it would not unduly affect the basic shape and design of the host.

The first consideration is whether the extension has the potential to overbear and cause a significant and thus harmful loss of aspect and light to adjacent primary spaces; SPG however offers clear guidance in that respect: 'in order to protect windows in neighbouring dwellings from overshadowing, proposed two-storey extensions should not breach the minimum distance along a 45 degree line drawn from the centre of the nearest ground floor 'primary' window of the neighbouring property'.

In that respect, the new mass, by virtue of its design does not breach that protected splay, irrespective of distance separation. There is the additionally consideration of levels (specifically No7 being on higher ground than No9) but the SPG has been drawn up considerate of such circumstance- i.e. a reasonably modest change in levels across the site(s). The extension would additionally be set back from the closest shared boundary and part softened by the intervening tall boundary fencing.

The SPG does not specifically protect first floor windows from loss of light/aspect but rather the potential to cause harm should be assessed against the merits of the situation. Again given the relatively modest massing in relation to the existing impact on adjacent first floor windows is not deemed to be harmful.

In respect of the impact on the most immediate garden(s), it is considered that during the greater part of the time, the existing mass will continue to cause shade and that this new part will only modestly affect that. That view is taken by virtue of the addition having an obvious smaller mass and a lower roof ridge in comparison to that of the host. A consultation response was made in respect of the stagger (a variation in the rear building line) between the hosts neighbouring properties. Considering 'house positioning' in the locality, this is not out of character – for example the relationship between the built form of No7 Kingfisher Close and 18 Siskin Close shows a similar 'stagger'.

The SPG protects where privacy may be adversely affected. Where it is felt there is a breach from the SPG, obscure glazing units will be recommended. The new window in the existing flank (would serve bedroom 3 as existing) can be conditioned in line with the requirements of the Part 1, Class A of the General Permitted Development Order requiring obscure glazing and fixed (i.e. non opening) unless the opening part is above 1.7m measured from the floor of the room of which it serves. It is recommended that side window (north eastern wall) of the extended dining space is conditioned similarly (to remove an overlooking potential to No9). Given there is the potential to overlook a large percentage of the immediate neighbouring garden from the closest shown first floor window on the extended part, again it is recommended that this be conditioned to be fitted with obscure glazing. This is felt appropriate given this window is not standardly orientated – i.e. designed not to look mainly down its own land.

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. The development hereby permitted shall be carried out in accordance with the drawing dated 20/08/2015, detailed as Rev B; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

3. 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 prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the window hereby approved serving bedroom 3 (that to be fitted in the existing side wall) shall be (i) obscure glazed, and (ii) non opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and permanently maintained thereafter as such.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dining room window in the side/north eastern elevation shall be glazed in obscure glass and permanently maintained thereafter as such. Additionally the new extended bedroom-space window (that closest to the boundary with No9 Kingfisher Close) shall be (i) obscurely-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and permanently maintained thereafter as such.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item 1.6

Reg. No. 9/2015/0900/TP

Applicant:
Mr Martin Buckley
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Martin Buckley
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Proposal: **THE POLLARDING OF A FRAXINUS EXCELSIOR TREE
COVERED BY SOUTH DERBYSHIRE DISTRICT
COUNCIL TREE PRESERVATION ORDER NUMBER SED
1996 AT ST WILFREDS CHURCH CHURCH LANE
BARROW ON TRENT DERBY**

Ward: **ASTON**

Valid Date: **23/09/2015**

Reason for committee determination

The item is presented to Committee as the Council is the applicant.

Site Description

The application site is St Wilfreds Church in Barrow on Trent that bounds residential areas including Church Lane and Hall Park. The land level sits approximately 300mm higher than Hall Park and the land within the churchyard and is highly visible from the public realm.

Proposal

The pollarding of a Fraxinus Excelsior (Ash) tree.

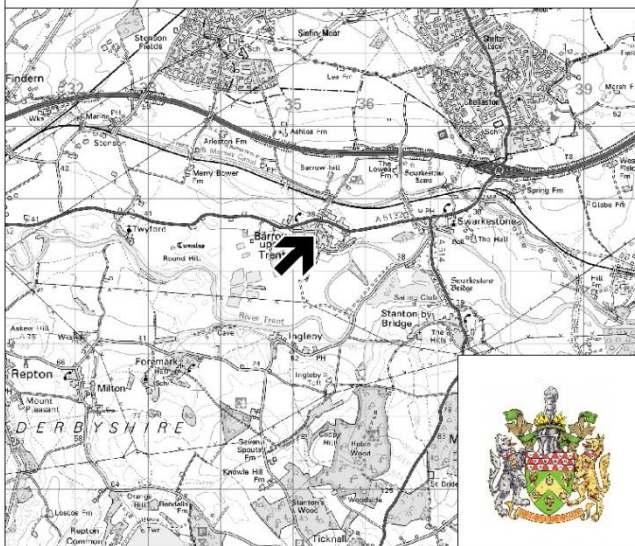
Applicant's supporting information

A tree report has been submitted by the applicant in support of the proposed works.

Planning History

None.

9/2015/0900- St Wilfreds Church, Church Lane, Barrow on Trent DE73 7HB



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South Derbyshire District Council. LA 100019461. 2014

Responses to Consultations

None.

Responses to Publicity

None.

Development Plan Policies

None.

National Guidance

None.

Planning Considerations

The main issue central to the determination of this application is the suitability of the proposed works to the tree in question.

Planning Assessment

The tree in question is a large Ash tree that is protected by a Tree Preservation Order and is located in the most north-eastern corner of the Churchyard. The aforementioned tree bounds residential land and public highways to Hall Park.

The tree officer's report supports the proposed pollarding due to the trees historic limb failure which poses a risk to the public because of the trees location bounding the public realm. The tree report also supports pollarding as a way to retain the tree for 5-10 years without a material risk of danger to the public.

The tree has a high amenity value but having considered the current health of the tree the works proposed are justified.

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.

Reason: To conform with Regulation 17(4) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the local planning authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

2. The work shall be carried out in accordance with BS3998:2010 - Tree Work.

Reason: To safeguard the health of the tree(s).

17/11/2015

Item **1.7**

Reg. No. **9/2015/0924/FH**

Applicant:
Mr R Thornewill
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Andrew Bennett
Housing Adaptations
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Proposal: **THE ERECTION ON A SINGLE STOREY EXTENSION AT**
 13 WARWICK CLOSE MIDWAY SWADLINCOTE

Ward: **MIDWAY**

Valid Date: **30/09/2015**

Reason for committee determination

The Council is the applicant; the proposed extension is to a Council owned residential property.

Site Description

The property is situated at the end of a residential cul de sac. Properties in the locality are of similar form and finish. In regards the rear garden area, this is a good sized mostly grassed space enclosed by 1.8m high fencing. There is however a taller (2.4m high) fence on the boundary with No14 Warwick Close though, as that property sits on higher ground.

Proposal

The application proposes the erection of a single storey rear extension to provide a ground floor bedroom and shower room for a disabled occupant.

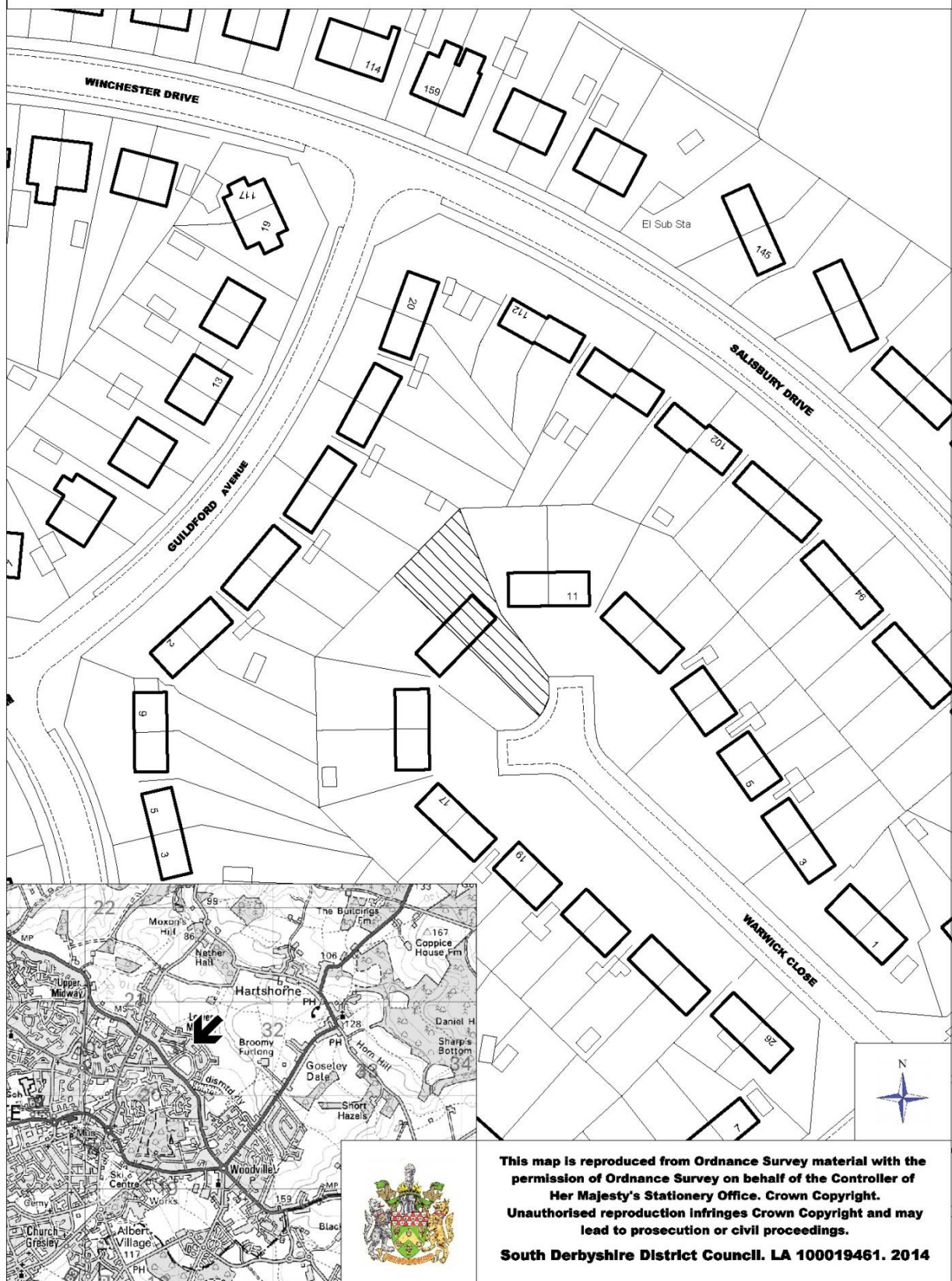
Applicants' supporting information

The extension is to be funded by a disabled facilities grant.

Planning History

None

9/2015/0924 - 13 Warwick Close, Midway, Swadlincote DE11 7LH



Responses to Consultations

None.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are: Housing Policy 13

National Guidance

National Planning Policy Framework (NPPF) in particular paragraph 58
National Planning Policy Guidance (NPPG) ID21b, ID26

Local Guidance

Supplementary Planning Guidance 'Extending your Home'.

Planning Considerations

The main issues central to the determination of this application are the design of the proposed extension and the impact it would have on neighbouring properties.

Planning Assessment

The proposal seeks to gain consent for a single storey rear extension to create a bedroom and bathroom for a disabled occupant.

The form presented is standard, finished with a pitched roof and would extend some 6m from the rear wall of the host property. In some circumstances an extension of that length could be seen to be excessive but by virtue of the existing boundary treatment here (in particular that between Nos 13 and 14), a useful set-back away from the most immediate boundary and the favourable site levels (again with most neighbours occupying higher ground) its visual impact is reduced significantly. As such it is felt there is no reasonable case for undue 'enclosure' caused by its slightly longer than standard form.

The new space is to be modestly fenestrated with the only window of note situated on the side wall, that affording a north eastern aspect. In respect of causing harm by causing a loss of privacy, any significant view from that bedroom (primary space) would be mostly curtailed by an existing brick built outbuilding. Even if that building was latterly removed, the window would only afford a view of the blank flank of No12 at best and not of any adjacent primary space. As such it is felt, as designed the extension would not cause harm in respect of a loss of privacy.

A condition that ensures the use of matching materials will ensure sympathetic execution of the development. The proposal has no impact upon the current parking arrangement.

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. The development hereby permitted shall be carried out in accordance with drawing ref: 4541, drawing no2 received on 30/09/2015; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt.
3. 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 prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the window hereby approved, serving the new shower room (to be fitted in the south west wall of the extension) shall be glazed in obscure glass and permanently maintained thereafter as such.
Reason: In the interest of protecting privacy.

Informatives:

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.