

19/08/2003

Item 1.2**Reg. No.** 9 2003 0599 U**Applicant:**

Derby Grammar School
 Rykneld Road
 Littleover
 Derby
 DE23 7BH

Agent:

Paul Rothera
 Rothera Goodwin
 42 St. Marys Gate
 Derby
 DE1 3JZ

Proposal: The use as school playing field of land forming O S Field
 Numbers 2887 1875 0070 0089 Staker Lane Mickleover Derby

Ward: Etwall

Valid Date: 21/05/2003

Site Description

The site comprises a number of fields to the south of the Pastures Sports and Social Club Grounds. Hedges enclose the land and field boundaries within the site have hedges to their boundaries. Access to the site is proposed from the Sports and Social Club access road via the Pastures site roads.

Proposal

The proposals involve the creation of 2 football pitches, 4 rugby pitches 2 tennis courts, a cricket pitch and nets with a dry training area incorporated within the court area. The application also indicates a proposal to upgrade the existing cricket pavilion and the formal marking out of the parking area to the sports and social club. The application plan shows that these hedges would be retained.

There would be a degree of sharing of the proposed and existing facilities between the school and the sports and social club.

Applicants' supporting information

The school currently has a temporary permission for playing fields off Bakeacre Lane near Findern. This expires in October 2004. Permission for playing fields on Staker Lane was refused last year because it would cause disturbance to nearby residents and on the grounds of highway safety. The School has looked at various options and feels that the present proposal represents a good workable proposal in a suitable location. It is stated that the school's lease on the existing site expires in September this year

The school has the support of the Pastures Hospital Sports and Social Club in the form of a letter attached to the application. There would be wider community use as advocated by Sport England in their letter in response to the previous application.

The school proposes that access to the site would be via various main roads to the Pastures Hospital site and thence to the site. They would not use Staker Lane. School minibuses would be used to transport teams from the school to site and a single coach would be used to bring children for lessons. For matches the home team boys would travel by car, away teams would arrive by coach or minibus.

Games lessons comprise 2 hour slots in either the morning or the afternoon mainly in the autumn and summer terms. The school plays hockey elsewhere, on Astoturf pitches, in the spring term. Practice sessions occur after 4:00pm in term time and midweek matches also start at the same time. Saturday matches start at either 10:00am or 2:00pm.

The school's intention is that the community should have access to the facilities outside school hours and that the existing management of the Sports and Social Club control the access to the facilities.

In response to the County Highways Authority comments about the need for car parking facilities, the applicants have stated that it was their intention to demonstrate that with proper marking out there is an excess of parking available within the existing area designated for parking. Many more cars could be accommodated within the same area if they were required once the site was established.

Planning History

There is no planning history directly related to the area of the new pitches, but there was a similar application for pitches on land off Staker Lane. The sports and Social club has had no recent applications on the area within its control. Drainage works associated with the development of the houses occurred in the vicinity of the existing cricket pitch as well as works to the drainage ditches on the edge of the site.

Responses to Consultations

Burnaston Parish Council has no objection to the principle of the development but would wish to see a condition to prevent floodlights being erected on the site. There is also concern about the access to the site, it being considered too narrow with difficulty in cars and buses passing each other. Turning facilities should therefore be provided to allow buses to turn to leave the site in a forward gear. Residents of Merlin Way are concerned that the proposals would lead to vehicles, including coaches, parking on that road. This would be considered a hazard for motorists and children.

The County Highways Authority has commented that there may be a sustainability objection due to reliance on the car for some activities but suggests that additional parking should be provided to meet the requirements of the new facilities.

Sport England has no objection. It notes the links that would put in place with the sports and social club and the measures put in place to address the transport of pupils. The community links should be secured through an appropriate management agreement.

Responses to Publicity

9 letters have been received objecting to the development for the following reasons, some have been received as a result of publicity and some via Councillor Hood: -

- a) It is inevitable that building development will follow for changing facilities. It is also possible that the school would seek to relocate to the site once its pitches are in place and this would be difficult to resist, thus a precedent would be set.
- b) There would be an increase in noise levels (traffic noise and from the users of the site) that may be heard on Havenbault Lane that is some distance away as well as at dwellings closer to the site.
- c) There would be a significant intrusion into the countryside, whilst it is accepted that children need to play, this should not be at the expense of the open countryside.
- d) Traffic problems may arise, the access off Merlin Way is not suitable for coaches and they may mount the pavement causing a hazard for pedestrians especially children. If the road needs to be widened, then it would be at the expense of preserved trees
- e) Floodlighting of the pitches and site should be prevented, as this could be quite intrusive for nearby residents.
- f) There is too much roadway proposed within the site, the development would be too spread out and a lot of birds and wildlife would be lost if the development were to be permitted.
- g) The fields are not particularly level and engineering work would be necessary to form the playing areas. The natural watercourse that flows through the site would be lost.
- h) There is concern that the activities will continue into the night and who would control these activities.

Two letters of support have been received that make the following points: -

- a) The proposals do not detract from the open countryside and have been well designed to integrate with the existing facilities.
- b) The new facilities would be shared with the community and the range of activities offered by the sports and social club would be increased.
- c) The proposals would result in the refurbishment of the existing cricket pavilion and an improved standard of maintenance for the sports ground that would improve the general appearance of the area.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Environment Policy 1, Recreation and Tourism Policy 1

Emerging Local Plan: Policy ENV 7, Policy LRT 3

Planning Considerations

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

- The provisions of the Development Plan
- The impact of the development on the character and appearance of the countryside
- The access to the site and car parking provision
- The management agreement

Planning Assessment

There is a presumption against development in the countryside unless it can be demonstrated to be necessary in such a location. The emerging local plan seeks to locate facilities such as this on the edge of the main centres of population or serviced villages within the district. In this case, the site is well related to an existing recreation facility that is well related to a development of some 500 dwellings on the edge of the city.

The facilities are primarily concerned with needs of a school that is located on the outskirts of Derby where the land currently used for sports field provision is being taken out of the school's control. But the facilities are also proposed to be made available to members of the sports and social club who also comprise residents of the housing development.

The proposals would require that pupils are 'bussed' to the site or transported by car but the facilities are well related to the housing area and residents would potentially be able to use the facilities outside the times when the school requires them.

The impact of the proposals on the countryside arises from some 6 additional pitches and two associated new buildings. In addition, a roadway and turning area would be created through the fields to assist with access and maintenance of the grounds. The two new buildings would have a floor area similar to the existing cricket pavilion.

No elevational drawings accompany the application. Conditions are recommended to require the submission of details for the pavilions. The overall impact of the buildings and road would be minimal from most public vantagepoints. There is a footpath from Burnaston village towards the Pastures site and there would be views from the path of the facilities albeit through existing trees and hedges. The most apparent feature is anticipated to be the posts associated with the rugby pitches.

Objectors have raised the issue of floodlighting and the potential impact this may have on the character of the area. No floodlighting is proposed as a part of this application. A fresh application would be required. If submitted and subsequently found to be acceptable, the hours of operation and extent of any lighting could be controlled.

There are large areas currently used for parking by the sports and social club. The applicants have assessed that there could be some 66 cars parked if the large area was properly marked out around the edges. There is space in the area shown for additional parking space should it be needed.

The overall conclusion is that this is a suitable use for the land. The site is well related to an existing sporting facility and a residential area. It would be necessary to secure public access to the land through a Section 106 Agreement and it would also be necessary to ensure that the promised improvements to the existing cricket pavilion are carried out in a timely manner. A management agreement with the sports and social club would be necessary to formalise the arrangement reached between the school and the sports and social club.

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 the Committee **AUTHORISES** the Head of Planning Services and the Head of Member and Legal Services to negotiate the signing of an agreement under Section 106 of the Town and Country Planning Act 1990 to secure:

- Public access to the sports facilities that is to be managed by the Pastures Sports and Social Club outside the times that the Derby Grammar School do not require the facilities hereby permitted.
- The restoration of the existing cricket pavilion in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The scheme to have been implemented prior to the first use of the pitches hereby permitted or some other timescale agreed between the parties.

Subject to the conclusion of an Agreement as set out above **GRANT** permission subject to the following conditions: -

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the particulars of the application, details of the proposed buildings shall be submitted for approval in writing by the Local Planning Authority prior to commencement of any building operations.
2. Reason: No details have been submitted.
3. No development shall take place until details of any earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the existing and proposed levels and contours to be formed, showing the relationship of any mounding to existing vegetation and surrounding landform.
3. Reason: In the interests of the appearance of the area.
4. This permission does not authorise the erection of any lighting columns or floodlights within the site
4. Reason: In the interests of the appearance of the area.
5. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
5. Reason: In the interests of the appearance of the area.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
6. Reason: In the interests of the appearance of the area.

Informatives:

This permission does not authorise the erection of any lighting columns or floodlights within the site. Any such proposals shall be the subject of a separate planning application.

19/08/2003

Item 1.3**Reg. No.** 9 2003 0746 F**Applicant:**

BGT Limited
 Liberty Farm, Findern Lane
 Burnaston
 Derbyshire
 DE65 6LJ

Agent:

Alan Taylor
 Talbot Associates
 Talbot House
 18 Grange Close
 Ticknall
 Derbyshire
 DE73 1LF

Proposal: The erection of a free range egg production unit (1) at Liberty Farm Findern Lane Burnaston

Ward: Etwall

Valid Date: 16/06/2003

Site Description

The site comprises some 6 hectares on land adjacent to the A38. To the west of the land are other fields operated by the applicant that are occupied by 3 existing free-range egg units. The fields are separated from the main site by hedges. To the north of the application site are another two fields that are subject to a separate report to a future Committee.

Proposal

In this application one 3000 bird unit would be erected on the site in materials that match those of the units already on the farm holding. An access track would link the proposed building to the existing farm track. This track would then extend north towards the other application site.

Applicants' supporting information

The rules for stocking level for free-range egg production are changing. The original buildings were designed to have a stocking density of 11.7 birds/sq.m. From 2005, this farm will have to reduce currently approved stocking levels from 9 birds/sq.m to 6 birds/sq.m thus halving the original capacity of the existing buildings. This would have a consequential impact on turnover. The maximum flock for organic free-range unit is 3000 birds and these buildings have been designed to meet that standard. In order to maintain the success of the business it is proposed to construct this and another unit, maintain bird numbers and thus profitability. There would be no additional HGV lorry movements but there may be scope for more employment of staff.

Planning History

The first three free-range units were permitted in 1998 with the grant of permission for a temporary mobile home in the same year. A permanent dwelling was granted permission in

December 2000. Permission for a poultry rearing unit was granted in 1999 together with extensions to the units in 2002. Permission for an agricultural building was also granted in 2000.

Responses to Consultations

Burnaston Parish Council has no basic objection but recognises that this is a significant expansion and evidence is required to demonstrate that the waste is being handled in an environmentally sensitive way. Waste from other poultry units have caused problems for residents, particularly from smells. The Environmental Health Manager's office seems reluctant to pursue smell complaints because of the difficulty of identifying the source. However, this does not detract from the unpleasantness and distress caused to residents.

The County Highways Authority has no objections.

The Environmental Health Manager has no objection

The Environment Agency has no objection in principle subject controlling the storage and disposal of manure being by condition. Other information is given in the letter and will be sent to the applicant.

Responses to Publicity

2 letters have been received objecting to the development on the following ground: -

- a) There is concern about smell and airborne pollutants that will be carried on the wind from the farm to Staker Lane. This could have an adverse impact on asthma sufferers affecting their health. There is documentation of increased health problems from people living near the proposed units.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: Environment Policy 1 & 5

Emerging Local Plan: Policy ENV 7

Planning Considerations

The main issue central to the determination of this application is the impact of the development on the character and appearance of the countryside

Planning Assessment

The proposal represents the consolidation of an established business in the countryside. The impact of the buildings themselves and the roadways is minimal. The feed silos are now smaller than was the case in the past but it is this aspect of the development that has greatest impact. The existing silos have a silver grey appearance but the use of a more recessive colour would help to reduce the impact as this is a site that is closer to dwellings.

The smell issue has been addressed in the past when considering similar applications. In the 2 or 3 years this building has been in operation, there have been no complaints recorded about smell

from the unit. The manure is cleared from the buildings once every cycle and there have been at least 2 cycles since the farm was established.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the submitted details, the finished colour of the feed silos shall be agreed in writing by the Local Planning Authority before development is commenced. The approved colour shall be used in the finish of the silo.
2. Reason: In the interests of the appearance of the area.
3. Before development is commenced a scheme for the storage and disposal of manure and contaminated water shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented throughout the life of the chicken unit.
3. Reason: In the interests of prevention of the pollution of the water environment.

Informatives:

You are advised to note the requirements of the Environment Agency as set out in the attached letter dated 2 July 2003 a copy of which was sent to you.

19/08/2003

Item 1.4**Reg. No.** 9 2003 0795 F**Applicant:**

The Co-Operative Bank
P O Box 101
1 Balloon Street
Manchester
M60 4EP

Agent:

Darnton Elgee Architects
The Coach House, Monk Fryston Hal
Monk Fryston
Leeds
LS25 5DU

Proposal: The installation of proposed 24 hour ATM cashpoint and satellite communications dish at 2 Castle Way Willington Derby

Ward: Willington/Findern

Valid Date: 26/06/2003

Site Description

The site comprises the front wall of The Co-Operative building on the Castleway an associated satellite dish would be located on the north east corner of the building.

Proposal

The ATM would be sited in an existing 'blocked up' window opening.

Applicants' supporting information

The applicants have noted the objections received and put forward the following information relation to those objections: -

Information is awaited

Planning History

The site has been a shop for numerous years with various applications for alterations, signs and extensions. Most recently, there was an application for roller shutters to the windows and door.

Responses to Consultations

Willington Parish Council has no objection

The County Highways Authority has no comment

Responses to Publicity

8 letters from 6 households have been received objecting to the development for the following reasons: -

- a) There is no need for the facility as the village is generally very quiet between 9:30pm and 6:30am – facilities exist in the shop to get cash back and there are other machines in the village, such as at the Y-Pass garage where people can get cash if they want it. This facility is only two minutes away by car.
- b) The Castleway is an extremely busy road during the day, people park on the road on double yellow lines rather than use the car park to the rear. Delivery lorries also park on the road rather than reverse down the side of the shop – this is despite signs saying that deliveries should be made from the rear. The proposal does not comply with the requirement that developments should not compromise road safety. It would only be a matter of time before there is a fatal crash.
- c) The ATM would ‘overlook’ nearby dwellings. The machine would generate noise that would be magnified by the way the dwellings are arranged on the street. There would be increased noise and disturbance arising from the application.
- d) Refrigerated lorries cause noise and disturbance when they make deliveries, the machine would add to this. Sleep patterns would be disturbed by cars stopping with their engines running and radios blaring whilst illegally parked. Illegal parking has been reported to the police without action being taken. There would be an increased risk of accidents occurring if the ATM permission was granted.
- e) There have also been problems with alarms going off at all hours of the day.
- f) The village has changed beyond all recognition. Toyota has developed and there are now proposals for 900 additional houses on the site of the power station. Businesses have started in the village. Traffic is diverted through the village if there are problems on the A38 or A50. There is not enough thought given to the impact of all these changes upon the village. Rubbish is not cleaned promptly enough refuse collectors also have problems doing their job properly. All these problems would be amplified if the new housing were allowed to develop. The application should be turned down on the grounds of health and safety and nuisance caused to local residents.
- g) A new store should be built on the power station site to take the problems away from the centre of the village.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: None relevant

Emerging Local Plan: Policy ENV 21

Planning Considerations

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

- The impact of the proposal on the appearance of the shop front.
- The effect on residential amenity and traffic safety locally

Planning Assessment

The material impact of the proposal on the shop front would be minimal. It is to be located within an existing opening on the shop front.

Many of the objections raised by the community relate to the situation that exists whether or not the ATM were available at the shop. Illegal parking/waiting is a matter of concern in so far as an obstruction may be caused. This is a matter for the police. The Local Highways Authority has no objection on highway safety grounds that would support a refusal on this basis.

The question of noise from the machine itself is a matter for consideration. The applicants have been approached and the various beeps are necessary to comply with the Disability Discrimination Act where facilities are required to be useable, in this case, by the visually impaired. Thus there is no scope to 'turn off' this aspect of the machine.

The presence of existing machines in the vicinity of the proposal does not of itself justify precluding the provision of further machines in the area. The machines in the other shops within the village are not available 24 hours a day. The proposal would add to the choice for the whole village.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

19/08/2003

Item 1.5**Reg. No.** 9 2003 0818 FH**Applicant:**

Mr Mrs J Bailey
22, Laburnum Road
Newhall
Swadlincote
Derbyshire
DE110NR

Agent:

Mr Mrs J Bailey
22, Laburnum Road
Newhall
Swadlincote
Derbyshire
DE110NR

Proposal: The erection of a two storey extension at 22 Laburnum Road
Newhall Swadlincote

Ward: Newhall

Valid Date: 01/07/2003

Site Description

The property is a semi-detached house in a row of similar properties on the south-west side of Laburnum Road.

Proposal

The application is for the confirmation of an additional bedroom with a pitched roof, above an existing ground floor kitchen extension. The development has been completed externally. The ridge height is approximately 0.6m higher than that of the main house, and the eaves level approximately coincides with that of the latter.

Applicants' supporting information

None

Planning History

None. The kitchen extension and a detached garage were built under permitted development rights.

Responses to Consultations

The only consultation has been with the Coal Authority.

Responses to Publicity

There have been no responses from neighbours.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: Housing Policy 13

Emerging Local Plan: Policy ENV 21

Planning Considerations

The main issue central to the determination of this application is the impact of the extension on the residential amenity of the occupiers of nearby dwellings.

Planning Assessment

The relevant SPG states that a two-storey extension should not cross a 45° line drawn from the centre of the nearest habitable room window of the adjoining dwelling, and the first floor extension under consideration fails to achieve this clearance by approx 0.85m, thus causing a certain degree of overshadowing of the adjoining semi-detached house. The extension is situated to the west of this window, and the two houses are built at the same level. The neighbour has not objected to the extension, which had been completed externally by the 17th July.

In view of the foregoing circumstances and of the limited extent of transgression of the 45° standard, it is considered that an enforcement notice requiring the demolition of the extension would not be reasonable. It is also in doubt whether a refusal of planning permission unaccompanied by enforcement action would be appropriate.

Recommendation

GRANT permission subject to the following conditions:

1. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
1. Reason: To safeguard the appearance of the existing building and the locality generally.

Informatives:

To note and act upon as necessary the comments of the Coal Authority (see attached letter).

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

19/08/2003

Item 1.6**Reg. No.** 9 2003 0883 FH**Applicant:**

Robert Kneale
 25, Fox Close
 Stenson Fields
 Derby
 DE24 3JE

Agent:

Robert Kneale
 25, Fox Close
 Stenson Fields
 Derby
 DE24 3JE

Proposal: The erection of an extension at 25 Fox Close Stenson Fields Derby**Ward:** Stenson**Valid Date:** 17/07/2003**Site Description**

The property is set at the head of a cul-de sac and shares a drive with several other properties. The dwelling facing the side of the property (No 19 Fox Close) is about 11 metres away. That property has a through lounge with windows at the back and front. The subject property is to the north of the No 19.

Proposal

The proposed two storey extension would be between 8.4 – 8.8 metres from the front window of No 19 and 10.4 metres from that of No 17. Whilst the current side elevation of No 25 has a first floor window the proposed extension would be blank at the side.

Planning History

An application for similar extension and a single garage was refused under delegated powers in April (9/2003/0162/F) for the following reason:

- The proposed two-storey extension would be between 8.4 m - 8.8 m from the habitable room window in the front elevation of 19 Fox Close. The Council's supplementary planning guidance seeks a minimum distance of 12 m. As such the two-storey extension would be detrimental to the amenities of the occupiers of that house contrary to Housing Policy 13 of the South Derbyshire Local Plan.

Responses to Publicity

The occupiers of No 19 have written in support of the application, stating that the loss of the existing window would eliminate overlooking to their living room and see the proposal as a definite improvement to the present intrusion. There has been no response from No 17.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: Housing Policy 13.

Planning Considerations

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

- Impact on the general character of the area.
- Residential amenity.

Planning Assessment

The proposal is in keeping with the general character of the area.

The extension fails to meet the supplementary planning guidance, which seeks 12 metres between a main window and a blank gable. However the following factors are relevant to this case:

- The subject property is to the north of No 19 and there would be no loss of sunlight.
- No 19 has a through lounge with windows front and rear.
- The occupiers have stated a positive preference for the proposal, as it would eliminate overlooking that they currently find unacceptable.

In the above circumstances the proposal can be construed as acceptable.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no windows or doors shall be inserted in the south (side) wall of the extension.
3. Reason: To maintain privacy to No 19 Fox Close.

19/08/2003

Item 2.1**Reg. No.** 9 2003 0524 R**Applicant:**

Mr A Redfern
 18 Watery Lane
 Newhall
 Swadlincote
 Derbyshire
 DE110UF

Agent:

David Raybould
 Fallowell & Partners
 Bretby Villa
 Midland Road
 Swadlincote
 Derbyshire
 DE11OAJ

Proposal: The renewal of planning permission 9/2000/0250/O for the erection of two bungalows on land forming part of the side garden of 18 Watery Lane Newhall Swadlincote

Ward: Newhall

Valid Date: 30/04/2003

Site Description

This 40m by 42m roughly square shaped site is at the end of Watery Lane which itself is off the east side of Park Road and forms the majority of the side and rear garden to 18 Watery Lane. The site is overlooked by existing dwellings on Watery Lane, Dales Close and Fairfield Crescent. The site is occupied by a number of mature fruit trees and mature hedges mainly of hawthorn with holly and elderberry mark its north and south boundaries.

Proposal

It is proposed to renew an outline planning permission for residential development with all matters reserved for subsequent approval apart from access which would be onto Dales Close which links to Fairfield Crescent.

Planning History

Outline permission was granted in June 1997 and renewed on 10th May 2000.

The trees and mature hedges on the site were made the subject of an emergency tree preservation order in July this year.

Responses to Consultations

The Highway Authority has no objections subject to satisfactory details of parking and access being taken from Fairfield Crescent.

Responses to Publicity

Two letters of objection have been submitted the main points of which are as follows:

- Nearly every parcel of land in Swadlincote urban area has been built on.
- This is a mature orchard of which there are very few if any left in the Swadlincote area.
- Just by observation it is an important habitat for birds and small mammals.
- PPG3 strengthens the argument to protect these sites.
- There are sufficient brown field sites in the area to meet future housing commitments without using sites such as this.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 1; General Development Strategy Policy 2; Housing Policy 3; Environment Policy 16.

Local Plan: Housing Policy 4; Environment Policy 11.

Draft Local Plan: Policy Env 8; Housing Policy H1

Planning Considerations

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

- Loss of trees and open space which contribute to the amenity of the area.

Planning Assessment

The site is not identified in the current or emerging Local Plan and is therefore a windfall site. PPG3 defines windfall sites as previously developed sites that have unexpectedly become available. The definition of previously developed land in Annex C of PPG3, includes residential curtilage land. Although new fencing has recently been erected to delineate a smaller garden area to the rear of the house, from the OS plans it would appear that historically the proposal site has always been residential curtilage, albeit much larger than average garden sizes in the area.

The Town and Country Planning (Trees) Regulations 1999 made it clear that fruit trees that are not cultivated on a commercial basis could benefit from the protection of a Tree Preservation Order. The trees on the site are not cultivated on a commercial basis and do contribute to the amenity of the area. They have therefore been made the subject of a Tree Preservation Order.

The emerging Local Plan reflects policies contained in PPG3. The site can therefore be described as previously developed land and Policy H1 supports the development of previously developed land within the Swadlincote boundary. This however needs to be weighed against Policy Env 8, which seeks to protect land that is of localised importance to the character and environmental quality of the area. PPG3 stresses the importance of greening the residential environment. There is a dearth of incidental green space, also containing trees, in the neighbourhood to provide relief in this otherwise built up area therefore giving greater justification to protecting this site from development due to its scarcity value.

In addition, proposed allocations in the draft Local Plan will ensure sufficient land supply to maintain completion rates until the end of the Plan period. It can also be demonstrated that a

steady flow of small brown field windfall sites have been coming forward for development in the Swadlincote Sub-Area in the last year increasing the modest over-provision of land supply. There is therefore no need to release this site for housing, which adds weight to protecting it for its amenity value.

It was reported to members in 1997, when the site was first approved for development, that whilst the site was of some amenity value, this value was negligible. The policy framework has changed considerably, however, since that time reflecting a greater recognition of the value to be attributed to green spaces in residential areas and the amenity value of fruit trees.

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

Recommendation

REFUSE permission for the following reason:

1. This site in its undeveloped state containing mature trees and hedgerows is of localised importance to the character and environmental quality of the area. There is a dearth of incidental green space, also containing trees, in the neighbourhood to provide visual relief and variety in this otherwise built up area therefore giving greater justification to protecting it from development in the public interest. The development is therefore contrary to the following policies:

PPG3: Housing; PPG17: Planning for open space, sport and recreation.

Joint Structure Plan: General Development Strategy Policy 1; General Development Strategy Policy 2; Housing Policy 3; Environment Policy 16.

Local Plan: Housing Policy 4; Environment Policy 11.

Draft Local Plan: Policy Env 8.

APPEAL ALLOWED

Appeal by Orange Communications

The removal of a lighting tower and the erection of a 25 metre high telecommunications mast with associated telecommunications equipment at Former Coal Stocking Yard Coton Park Linton Swadlincote. (9/2002/0674)

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

Notwithstanding the presence of the existing flood lighting tower, which the Council considers to be no longer required for any recognised useful purpose, derelict and in need of removal as part of general restoration of the site, the erection of the proposed mast would represent an intrusion into the countryside, harming its amenity and character, contrary to General Development Strategy Policy 4 of the Structure Plan and Environment Policy 1 of the Local Plan and Environment Policies 3 and 21 of the emerging replacement Local Plan.

In the light of perceived danger to health, arising from the proximity of the proposed mast to the proposed children's playing area across the road, the intrusiveness of the mast is likely to be even more apparent to local residents who have these concerns on behalf of their families.

The applicants appealed against the decision and the appeal was determined via the written representation procedure.

The inspector identified the relevant policies to determine the appeal and the government advice pertaining to the determination of applications for telecommunications masts. He identified the main issue as the effect of the mast on the character and appearance of its surroundings.

On the first issue he concluded that the proposed mast would not be as visually intrusive as the tower it was to replace. The existing tower being 30 metres high, the replacement being 25 metres high. The head frame of the existing tower is some 4m x 3m whilst the proposed head frame is 3m x 2m. The Inspector noted that the proposal was designed to create as little impact as practicable on the surroundings as advised by Planning Policy Guidance Note 8. Given the sporadic nature of development hereabouts, he opined that it would be inevitable that there must be some impact on the countryside. However, the proposal nevertheless conformed to Environment Policy 1 of the Local Plan. The Inspector examined alternative sites but concluded that it was inevitable that there would be some impact on one settlement or another arising from the erection of a mast. Given that the proposal will maintain and not erode the established character of the area it was not necessary for him to have regard to the possibility that a further less intrusive site may possibly be identified.

The issue of the perceived danger to health was considered carefully by the Inspector. He noted the distances between the proposed structure and the nearest dwellings. He also examined the advice about health issues contained in Government advice and the conclusions of the Stewart report. He also had regard to appeal decisions where the perception of harm to health had been accepted as a material planning consideration.

He concluded that an insensitive siting of a mast might give rise to anxiety to sections of the community even if that fear is irrational. However, he did not consider that the siting of the mast in this location was insensitive. The emissions from the mast fall well within the guidelines of the ICNIRP (International Commission on Non-Ionising Radiation Protection) and he found that little weight could be given to the health or local concerns about the perception of risk because of the above advice and the design and siting of the installation.

The overall conclusion was that the proposal conforms to the relevant Development Plan provisions and that the other matters raised did not indicate that his decision should be determined other than in accordance with the Plan. He allowed the appeal subject to conditions requiring the development to be commenced within 5 years and that the existing must be removed prior to work to construct the new one being commenced.

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APPEAL ALLOWED

Appeal by Mr Harbord

The formation of a vehicular access at 30 Twyford Road Willington Derby (9/2002/0476)

The application was refused permission for the following reasons:

- 1. Approval of the proposal would result in a vehicle manoeuvring to or from the classified road in close proximity to the junction of Twyford Road and Oaks Road to the detriment of highway safety.*

The application was refused using delegated powers and the subsequent appeal was determined under the written representations procedure. The County Highways Authority in this case provided the statement.

The inspector noted that the front garden of the house was capable of providing the parking space but no turning facilities. She noted that the house was in close proximity to the Oaks Road junction and that there was scope for people to misinterpret turn signals as suggested by the County Highways Authority. However, it was noted that several other dwellings had pull off areas and that the turning movements into and out of the site would not add materially to the existing hazards as it is reasonable to expect that drivers would make proper observations. She found that there would be no over detriment to highway safety.

The appeal was allowed subject to development being commenced within 5 years.

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APPEAL ALLOWED

Appeal by Mr Ebbutt

The erection of an extension 128 Station Road Hatton Derby (9/2002/1050)

The application was refused permission for the following reason:

- 1. The proposed extension would appear overbearing to the occupiers of the adjacent property and therefore be detrimental to residential amenity. Housing Policy 13 of the adopted Local Plan and the Council's adopted Supplementary Planning Guidance set standards by which the impact on amenity is assessed and if the standards are breached, then the policy requires that permission is refused. In this case the overbearing influence referred to above would significantly detract from the amenity of the adjoining dwelling to a point where the proposal is contrary to Housing Policy 13.*

The above application was refused using delegated powers. The subsequent appeal was determined under the written representations procedure. The main issue was whether the proposed extension would overbear on the adjacent property.

The inspector noted that this proposal was identical to one at 130 Station Road and concluded that the extension would not overbear on that dwelling. (This report covers the one for 130 Station Road as well). The impact if any would be on 126 Station Road and the inspector noted that this dwelling had a similar window arrangement to the appeal property. The windows in the proposed extension would not overlook those in 126 and if the brickwork were painted, it may improve the outlook from 126. There would be no overbearing from the extension on either 130 or 126.

The appeals were therefore allowed subject to conditions in particular the painting of brickwork in a light colour with the agreement of the Local Planning Authority and the fixing shut of the side window in the extension.

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APPEAL ALLOWED

Appeal by Mr Ebbutt

The erection of an extension at the rear of 130 Station Road Hatton Derby (9/2002/1052)

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

- 1. The proposed extension would appear overbearing to the occupiers of the adjacent property and therefore be detrimental to residential amenity. Housing Policy 13 of the adopted Local Plan and the Council's adopted Supplementary Planning Guidance set standards by which the impact on amenity is assessed and if the standards are breached, then the policy requires that permission is refused. In this case the overbearing influence referred to above would significantly detract from the amenity of the adjoining dwelling to a point where the proposal is contrary to Housing Policy 13.*

See the report on the appeal decision for 128 Station Road above.

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APPEAL DISMISSED

Appeal by Mr Restall Hatton Bathroom Centre

The erection of a first-floor showroom extension at 60-62 Station Road Hatton Derby (9/2002/0835)

The application was refused permission for the following reason:

- 1. The proposed extension would result in an overbearing impact on the amenity of the adjacent properties. Whilst shopping policies allow the expansion of the premises of established businesses, this is not at the expense of a detrimental impact of the on the amenities of the occupiers of the adjoining premises. Accordingly, the proposal is contrary to the provisions of Shopping Policy 3 of the adopted South Derbyshire Local Plan.*

The Development Control Committee, following a site inspection, refused the application. The appeal was determined by the Written Representations procedure and Councillor Whyman attended the appeal site visit.

The inspector found that the main issue was the impact of the proposed extension on the occupiers of the neighbouring properties paying particular attention to visual impact.

It was concluded that the development would have an overbearing impact on 3 dwellings having an adverse impact on their amenities and a material but oblique impact on the amenity of 4 other dwellings. This was found contrary to the provisions of Shopping Policy 3 of the adopted Local Plan.

The appeal was therefore dismissed.

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APPEAL DISMISSED

Appeal by Mrs Haynes

The siting of three caravans and facility block on land at Land To The North Of Rosliston Road
Walton-on-Trent Swadlincote (9/2002/0917)

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

1. *The siting of the caravans in the location proposed would result in vehicles emerging onto the classified highway on the inside of a bend where visibility is substandard to the detriment of highway safety. Therefore the site does not have adequate provision for vehicular access and will cause road safety problems. As such the site does not comply with the highways/ access requirements of Housing Policy 15 of the Local Plan and Housing Policy 8 of the Structure Plan.*

The Inspector found that there were three main issues in determining the appeal, the first was the effect of the development on the character and appearance of its surroundings, the second was the effect in terms of highway safety and convenience and the third was whether there were any circumstances surrounding the appeal sufficient to outweigh any harm associated with the first two issues.

The Inspector recognises that the development does adversely affect the character of its surroundings to an extent which adds significantly to the arguments against its retention. He concluded however that the site has some advantages and that the harm to the character and appearance of the area would be balanced by other material considerations were that the only objection to the development. The issue of risk to traffic posed by the development because of the seriously inadequate visibility at the site access was sufficient to lead to the conclusion that permission for the development should be refused and the appeal was therefore dismissed.

The Inspector has amended the Enforcement Notice to extend the period of compliance to twelve months to allow the appellants' time to find an alternative home. The site will therefore have to be vacated by 11 June 2004.