

28/10/2003

Item 1.5**Reg. No.** 9 2003 0942 F**Applicant:**

South Derbyshire District Council &
 East Staffordshire Borough Council
 Civic Offices
 Civic Way
 Swadlincote
 Derbyshire
 DE11 0AH

Agent:

W. Royall
 Reeves Royall Partnership Ltd
 Knightley Farm, Callingwood,
 Needwood,
 Burton On Trent
 Staffordshire
 DE139PU

Proposal: The provision of additional car parking together with associated landscaping at Bretby Crematorium Geary Lane Bretby Burton-on-Trent

Ward: Repton

Valid Date: 12/08/2003

Site description

The site forms part of the landscaped grounds immediately in front of the crematorium building.

Proposal

The proposal, which has already commenced, is to increase the existing car park in front of the crematorium building by a further 31 spaces. Five out of the nine trees (Norway maple) on the western boundary of the existing car park have been felled to facilitate the extension and it is proposed to plant eleven replacement trees.

The surplus earth from the excavations has been regraded adjacent to the car park to reflect the undulating contours of the landscaped grounds.

Responses to consultations

Bretby Parish Council raises no objections.

Structure/Local Plan Policies

Adopted Local Plan: Environment Policy 1.

Revised Deposit Draft Local Plan: ENV 1

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.

12. Reason: In the interests of the appearance of the area.
13. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).
13. Reason: To protect the amenities of adjoining properties and the locality generally.
14. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflight(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.
14. Reason: In the interests of the appearance of the building(s) and the character of the area.
15. The windows in the north wall of the building shall be permanently glazed in obscure glass, the specification of which shall have previously been submitted to and approved in writing by the Local Planning Authority.
15. Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.
16. 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.
17. No part of the development shall be carried out until precise details, specifications and samples of the hard landscaping to be used in the paving of all external areas of the site shall have been submitted to and approved in writing by the Local Planning Authority.
17. Reason: To safeguard the appearance of the locality generally.

Informatives:

Further to Condition 14 above the two rooflights to the rear (north) elevation should be omitted as they are not necessary to the function of the space that they serve and it is in the interests of preserving the character and appearance of the conservation area to minimise the number of roof openings.

Planning Considerations

The main issues relating to this development is the impact of the development on the visual amenity of the crematorium grounds

Planning Assessment

The area to the west of the car park, visible from the vehicular access to the premises, has been sensitively regraded and, when grassed, will assimilate into the land form of the landscaped grounds providing adequate screening of the car park.

Recommendations

GRANT permission subject to the following conditions:

1. Within 28 days from the date of this decision notice a scheme of tree planting and grass seeding/turfing, which shall include indications of all existing trees adjacent to the site and details of any to be retained, together with measures for their protection in the course of development shall be submitted for approval by the Local Planning Authority.
1. Reason: In the interests of the appearance of the area.
2. 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 completion of the development; 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.
2. Reason: In the interests of the appearance of the area.

28/10/2003

Item 2.1**Reg. No.** 9 2003 1049 F**Applicant:**

Mr W G J Archer
 Trusleywood Farm
 Trusley
 Dalbury Lees
 Ashbourne Derbyshire
 DE6 5BH

Agent:

Haston Reynolds Partnership
 Woodlands
 Walton
 Telford
 Shropshire
 TF66AN

Proposal: The erection of a dwelling for an agricultural worker on
 Land Between Hillsway And Talland Dalbury Lees Dalbury
 Lees Ashbourne

Ward: North West

Valid Date: 22/08/2003

Site Description

The site comprises a couple of fields, one narrow and immediately adjacent to the road and the other set well back from the highway but with a broader shape. Hedges wholly enclose the site with a field gate access to the road.

Proposal

This is an outline application with all matters reserved for subsequent approval.

Applicants' supporting information

The application is supported by a full agricultural appraisal, the conclusions of which are summarised below: -

- a) The farm enterprise comprises a mixed beef, dairy and arable business.
- b) The applicant has a secure tenure on 110 acres and 33 acres of land in addition to this is owned by the applicant with a further 180 acres farmed on a variety of tenancies.
- c) The farm has some 260 livestock on it with a balance between dairy and beef.
- d) The overall labour requirement is 4 full time workers with the livestock enterprise requiring 2 full time staff.
- e) The farm meets all the functional and financial tests set out in Planning Policy Guidance Note 7 (annexe 1) for new agricultural workers dwellings.
- f) The applicants acknowledge that the best location for the new dwelling would be adjacent to the existing farm but the land is only held on a tenancy basis. The supporting information states that the landlord would not support the erection of a new dwelling on his land. The applicant owns the land where the dwelling is proposed and this would secure his interests should the tenancy be terminated for any reason.

- g) The proposed site is on owned land and is situated between two existing houses. It is some 70 metres outside the current village confine but it is argued that the house would be generally within the village. Planning Policy Guidance Note 3 does not preclude development in villages where there is an established need for the house. This is supported by advice in Planning Policy Guidance Note 7.
- h) The dwelling in this location would afford supervision of the beef herd in the summer months when cows are in calf. It is also within reasonable walking distance of the farm across fields either owned or controlled by the applicant.
- i) A new employee who is in rented accommodation some 8 miles from the farm would occupy the dwelling. This employee has a number of duties that require attention outside normal working hours such as calving the time of which cannot be predetermined. Retention of this essential worker could not be guaranteed without the accommodation.
- j) If permitted it is accepted that the house would attract an agricultural occupancy condition, this would reduce the effective value of the house by up to 50% and thus keep it available to the retired or low waged agricultural community.

The farmer has indicated personally that his business continues to suffer because he is unable to provide a house for a herd person. High costs of housing in rural areas have meant that the provision of a dwelling as part of a remuneration package for herd people has become the norm. The inability to recruit and retain a herd person is inhibiting the business growth and limiting opportunities for growth if the economies of scale necessary to maintain profitability. A herd person with a young family turned down a job because there was no house available as part of the remuneration package. The farmer asks that this be borne in mind when determining the application.

Planning History

There have been two previous applications refused on this plot of land. The first was in 1988 and the second in 1999. Both were for agricultural workers dwellings, one with a calf-rearing unit.

Responses to Consultations

Dalbury Lees Parish Council has objected to the development for the following reasons:

- a) Housing Policy H5 of the adopted South Derbyshire Local Plan (1998) clearly states that no development will be permitted outside of the village confines as defined in the proposals map. The supporting report from HRP acknowledges that this land is outside the approved village confines. Rejection on that basis alone would follow precedents established over many years in Lees.
- b) Policy H1 A(iii) of the Revised Deposit Draft Plan (January 2003) clearly states that in Lees residential development will be limited to infilling on brownfield sites. The land is clearly and unequivocally Greenfield and so any development should be refused. Furthermore the shape and size of the site is such that the strip of land fronting the road is only in the region of 11 metres wide and so could not realistically take a dwelling of any size. Therefore the only conceivable position for a dwelling would be at the rear of the adjoining dwellings, which could not be classed as infilling and so would also be contrary to this aspect of the policy.

- c) We contend that there is no valid justification for approving the proposed development on the basis that it would provide affordable housing in a rural area. PPG3 Annex B is quite specific on the criteria for allowing development on "exception sites". In particular it states that the planning authority should satisfy itself that adequate arrangements are in place to reserve the housing in question for local needs in perpetuity. We would suggest that affordable housing in this context would normally be provided by registered social landlords with future use being controlled by the terms of say a Section 106 Agreement. The proposals for ensuring the continual use of the proposed dwelling as affordable housing are inadequate and so approving the application for this purpose would be contrary to this element of PPG3.
- d) Annex I (5) of PPG 7 defines the criteria to be met before a permanent agricultural dwelling can be considered. The Parish Council does not feel it is in a position to comment on the financial viability of the farming business in question nor on whether there is a clearly established existing functional need for farm worker's dwelling to be provided. As the applicant appears to own an alternative property in Church Broughton, then criteria d is not met. We feel that as there is not fact a direct route by foot from the proposed dwelling to the main farm, as is suggested in HRP's report, then travel to the farm would be by road. We are advised that the distance from this site to Trusleywood Farm is almost the same as from Church Broughton and so there is a logical alternative existing building available.
- e) Furthermore we suggest that, as outlined in points above, "other normal planning requirements, for example on siting and access" have not been satisfied, which is contrary to the stipulations of criteria e of this Appendix.

The County Highways Authority has no objection to the principle of an access to serve an agricultural worker's dwelling but would prefer to see it served from the main farm access.

Responses to Publicity

A petition signed by 20 people has been received objecting to the development for the following reasons: -

- a) The village is a ribbon development and a new dwelling at the rear will set a precedent for other similar development altering the character of the village.
- b) There is no agricultural justification for the dwelling in this location as there is suitable alternative accommodation within a short travelling time from the farm.
- c) Several farmers own land fronting the road and this would encourage similar applications.
- d) Privacy and outlook would be lost.
- e) Without the short term rented land there is no justification for the dwelling, what happens if the rental arrangements change in the short term.

5 individual letters have been received the following additional objections have been raised to those made by petitioners and the Parish Council: -

- a) The distance to the farm is 6km and 1.5 by foot. The house in Church Broughton is only 7km by road. This is not different to travelling from Church Broughton.
- b) There are other villages at not too greater distance that could serve the farm where affordable housing exists.
- c) The affordable dwelling element would not be secured by the imposition of the agricultural occupancy condition. It would not accord with the advice in Circular 6/98 – affordable dwellings

- d) There has been a history of refused agricultural workers dwellings on this site.
- e) The development does not accord with the Development Plan nor the exceptions that are provided for in the Plan.
- f) Only the 33 acres owned by the applicant should be taken in to account, the access to other land could be withdrawn at any time.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 6

Local Plan: Environment Policy 1, Housing Policy 8

Emerging Local Plan: Policies ENV 7.

Planning Considerations

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

- The provisions of the Development Plan
- The needs of the business
- The impact on the countryside

Planning Assessment

The development plan makes provision for the erection of dwellings in the countryside if it is necessary to the viable operation of the business established in the rural area. The need of the business is a major consideration as is the location of the site in the countryside to minimise the impact of the development.

The business is well established and has made profits over the period of the past three years. The labour requirements have been assessed against the usual standards document for assessing labour requirements of farm businesses. There is a functional need for a second full time worker on the holding.

The appraisal of the farm business indicates that this worker is essential to take care of cows calving and assessing the health of animals outside normal working hours. This would best be achieved if the worker were in sight and sound of the main farm buildings.

Whilst the difficulties of the applicant are noted in respect of obtaining landlord's consent, the proposed site would not meet this basic requirement of the post. It is a minimum of 1km from the farm and the likelihood is that at times of emergency, the road route would be taken following an alert from the farm. The other accommodation available to the farmer at Church Broughton is not much further away by road and the time taken to reach the main farm would not be much longer. The conclusion is that the site is too remote from the main farm holding to warrant the grant of permission.

The potential impact on the countryside would be minimised if the dwelling were to be sited on the narrow part of the site. This could be a condition of the grant of planning permission. It is quite narrow but access and garaging could be sited at the front of the plot with the dwelling set back. However, given the above conclusion, the matter is not an issue in the determination of this application.

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

Recommendation

REFUSE permission for the following reasons:

1. The site lies in the countryside wherein General Development Strategy Policy 4 and Housing Policy 8 of the adopted Derby and Derbyshire Joint Structure Plan requires that new housing will only be permitted where it can be shown to be necessary for the operation of an established rural business and that a location in the countryside is essential. The statement accompanying the application states that there is a functional need for a second worker permanently resident on the farm to assist with the operation of the business. The main tasks identified in the report require urgent attention to the livestock outside normal working hours, mainly resident at the farm complex. The site is remote from that farm complex and at times of emergency, the time taken to reach the farm by foot or car would not be significantly greater than from another dwelling available to the farm holding. Accordingly, the erection of a new dwelling in this location is not justified on the basis that the erection of a third dwelling to serve the holding would not materially affect the operation of the business and is thus not justified under the provisions of the above policies.
2. Environment Policy 1 and Housing Policy 8 of the adopted South Derbyshire Local Plan and Policy ENV 6 of the emerging replacement South Derbyshire Local Plan requires that if development is justified as necessary in the countryside, then it should be well related to existing farm buildings or dwellings and that the dwelling is of a size commensurate with the functional requirement of the activity. The proposal is well related to existing dwellings but it is not necessary in the countryside for the reasons set out in 1 above and it would represent an unwarranted intrusion into the countryside contrary to the provisions of the above policies.

07/10/2003

Item 1.3**Reg. No.** 9 2003 0855 F**Applicant:**Alexander Hastings Developments Ltd
C/O Architectural Design Services**Agent:**Architural Design Services
The Carthovel, Charnels Court
Upperfield Farm
Shepstone
Leicestershire
LE67 2SG**Proposal:** The erection of an office building and four dwellings at The Stackyard Castle Street Melbourne Derby**Ward:** Melbourne**Valid Date:** 15/07/2003**Site Description**

The site is previously developed land, formerly an abattoir, in the conservation area, adjacent to the Grade II listed Castle Farm. There is a stone wall to the site frontage, with an existing access to the Castle Farm complex.

Proposal

A single range of buildings arranged around a courtyard is proposed, comprising a mixture of offices, two smaller terraced units and two family houses. On site parking is provided for the offices (three spaces) and the family houses (minimum three spaces per dwelling). The smaller dwellings would not have any designated parking area. There are several semi-mature trees on the site, which would need to be felled.

Applicant's Supporting Information

- a) A statutory declaration is attached, made by the previous owner, stating that there were until recently seven separate users of the access for a variety of domestic and business purposes. It was also formerly used as an abattoir with frequent lorry and van movements.
- b) Detail amendments have been undertaken to improve the appearance of the scheme.
- c) On site parking provision for the smaller dwellings has been deleted to satisfy the requirements of the Highway Authority.
- d) The smaller units would provide good starter homes for Melbourne, where it is increasingly difficult for young people to afford a house. Units would be for sale or let.

Site History

Following closure of the abattoir permission was granted in 1995 for several business uses at Castle Farm, utilising the Stack Yard for access and parking (3 vehicles). Additional parking

was provided within the curtilage of Castle Farm. With the exception of the veterinary surgery these uses have now ceased.

Responses to Consultations

The Parish Council considers that the dangerous access would require a generous splay to be safe.

Melbourne Civic Society has no objection. Whilst it would perhaps have welcomed a more imaginative design the society considers that the development would undoubtedly enhance the character of the conservation area and complement the architecture of Castle Farm.

The Highway Authority considered the initially proposed on site parking provision to be excessive, having regard to the substandard nature of the access. In view of the location of the site relative to the town centre, the proximity of convenient parking facilities on Castle Street and the benefits of restricting vehicular use of the substandard access, it considers that there is justification for seeking a reduction in the number of spaces within the site.

Responses to Publicity

Four letters have been received raising the following objections;

- a) There would be a dangerous increase in traffic.
- b) The existing access should be sealed to vehicles and the access to Castle Farm used for vehicles.
- c) The proposed business premises would cause disturbance.
- d) Open views would be lost.
- e) Mature trees that contribute to the environment and provide wildlife habitat would be felled.
- f) Parking provision is inadequate and there would be increased congestion on Castle Street, where there is no spare capacity for more parking.
- g) The development would be overbearing, reduce sunlight and daylight and result in loss of privacy to the adjacent business premises. This would diminish the amenity and value of the adjacent site.
- h) If the adjacent site were to be redeveloped the application proposal would be prejudicial to this.
- i) The boundary is incorrectly drawn.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 1, 2 & 3, Housing Policy 5 and Environment Policy 9.

Local Plan: Housing Policy 5 and Environment Policy 12.

Revised Draft Deposit Local Plan: Housing Policy 1.

Planning Considerations

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

- The principle.
- Impact on the character and appearance of the conservation area.
- Parking and highway safety.
- Residential amenity

Planning Assessment

The site is a brownfield site within the confine of a serviced settlement. Therefore a mixed residential and business proposal in this location is acceptable in principle, meeting the basic criteria for sustainable development.

Apart from the front boundary wall, which is an historic feature, currently the site does not make a positive contribution to the character and appearance of the conservation area. The proposed development respects the grain and character of the area and would introduce a development of sympathetic traditional design into this historic area. The development would thus be a significant enhancement to the character and appearance of the conservation area, not least because it includes a mixture of residential and business uses in an area where these have co-existed for centuries. Whilst some trees would be lost their amenity value would be exceeded by the proposed new buildings.

The access does not meet the normal standards required by the Highway Authority. However it is clear that there has been significant usage in the past such that it is reasonable to enable some traffic to continue to use it into the future. The loss of the wall to improve the access would be severely harmful to the character and appearance of the conservation area. By providing less than the normal maximum on site parking as set out in supplementary planning guidance there could be an increase in parking in the street. However this is the sort of location at which PPGs 3 and 13 envisage the need to travel by private car to be reduced, particularly as the development provides employment space alongside the housing. As the situation is also acceptable to the Highway Authority the proposal would not be demonstrably harmful in terms of safety or parking provision.

The proposal meets supplementary planning guidance on space about dwellings and the amenities of existing residents would therefore not be adversely affected. The proposed small-scale office use is unlikely to give rise to loss of amenity. The supplementary planning guidance has regard to the potential for adjacent sites to be developed. By avoiding habitable room windows on the north boundary of the site the development potential of the adjacent site is reasonably safeguarded.

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 originally submitted details, this permission shall relate to the amended drawing nos 23293/PD/02A, 03A, 06A, 07A and 01A.
2. 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 samples of the facing materials to be used in the construction of the exterior of the buildings have been submitted to and approved in writing by the Local Planning Authority.
3. Reason: To safeguard the appearance of the existing building and the locality generally.
4. Pointing of the existing/ proposed building(s) shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".
4. Reason: In the interests of the appearance of the building(s).
5. A sample panel of pointing 2 metres 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.
5. Reason: In the interests of the appearance of the building(s) and the locality generally.
6. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.
6. Reason: In the interests of the appearance of the building(s) and the character of the area.
7. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
7. Reason: In the interests of the appearance of the building(s) and the character of the area.
8. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
8. Reason: In the interests of the appearance of the building(s), and the character of the area.
9. Notwithstanding the submitted details large scale drawings to a minimum Scale of 1:10 of eaves and verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves and verges and external joinery shall be constructed in accordance with the approved drawings.
9. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
10. Prior to their first occupation measures shall be implemented to prevent the use of the curtilage to Units 2a and 2b for the purposes of parking cars in accordance with details

that shall have previously been submitted to and approved in writing by the Local Planning Authority and shall be retained as such thereafter.

10. Reason: In the interests of highway safety.
11. The car parking spaces and manoeuvring areas shown on the submitted plan shall be provided prior to the first use of the development and thereafter retained for that purpose free of obstruction, unless as may otherwise be approved in writing by the Local Planning Authority.
11. Reason: In the interests of highway safety.
12. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
12. Reason: In the interests of the appearance of the area.
13. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).
13. Reason: To protect the amenities of adjoining properties and the locality generally.
14. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflight(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.
14. Reason: In the interests of the appearance of the building(s) and the character of the area.
15. The windows in the north wall of the building shall be permanently glazed in obscure glass, the specification of which shall have previously been submitted to and approved in writing by the Local Planning Authority.
15. Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.
16. 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.
17. No part of the development shall be carried out until precise details, specifications and samples of the hard landscaping to be used in the paving of all external areas of the site shall have been submitted to and approved in writing by the Local Planning Authority.

17. Reason: To safeguard the appearance of the locality generally.

Informatives:

Further to Condition 14 above the two rooflights to the rear (north) elevation should be omitted as they are not necessary to the function of the space that they serve and it is in the interests of preserving the character and appearance of the conservation area to minimise the number of roof openings.

APPEAL DISMISSED

Appeal by Ms. J. E. North against:

Enforcement Notice issued to correct breach of planning control at 5 Burton Road, Ticknall being the unauthorised installation of two replacement windows in the front elevation of the dwelling and the unauthorised installation of three replacement windows in the rear elevation.

The Notice was issued for the following reason:

The existing replacement windows are of inappropriate design and as such, are harmful to the character and appearance of Ticknall Conservation Area, which was designated in November 1972 and extended in November 1983. The installation of the windows constitutes a material change in the appearance of the building necessitating the submission of a planning application under the Ticknall Article 4 Direction designated in November 1983.

Having examined the policy background and various procedural matters the Inspector came to a series of conclusions with respect to the four grounds of appeal submitted.

1. That there has not been a breach of planning control.

The Inspector took the view that the installation of the replacement windows had a material effect on the appearance of the dwelling and as such, amounted to development. In the absence of any planning permission for the works, he concluded that there had been a breach of planning control.

2. That planning permission should be granted for what is alleged in the notice

The Inspector found that the main issue was the effect of the development on the local street scene within Ticknall Conservation Area. Whilst attaching weight to applicable policies and to the Council's Supplementary Planning Guidance 'Historic South Derbyshire – Design Advice' he took the view that the windows at rear of the property, because of their very limited visibility, scarcely impinge, if at all, on the conservation area and the area's character and appearance would be preserved if they were to remain as they are.

With respect to the windows at the front of the property the Inspector felt that they were more apparent, especially the first floor one which he took to be a very prominent feature when viewed from the easterly direction and from the vicinity of the junction of Burton Road and Main Street. He was of the opinion that the windows appear as a discordant feature in the local street scene and tend to detract from, rather than preserve or enhance, the character and appearance of the conservation area. In the light of this, their retention was contrary to the relevant provisions of the development plan, the SPG and the emerging Local Plan.

The approach was taken that both front and rear windows should be viewed as one entity and that planning permission would not be granted to retain the windows in either elevation.

3. That the steps required to comply with the requirements of the notice are excessive and lesser steps would overcome the objections.

The Inspector took the view that the difference between the construction of the windows in the front elevation and the traditional frames that can be seen in the locality would not be readily obvious to the majority of passers-by and that it was the colour rather than the form of the windows that appears strident and discordant. In the light of this he agreed with the appellant's

contention that that the injury to amenity would be satisfactorily remedied by painting the two front windows white and felt that no further work need be carried out on the rear windows. To this extent the appeal on the above ground succeeded.

- 4 That the time given to comply with the notice is too short

In the light of the variations to the notice the Inspector considered the six-month period to be reasonable

The Notice was accordingly upheld with variations, the effect of which is to permit the retention of the windows but require those in the front elevation to be painted white within six months.

Costs Application

An application was made against the Local Planning Authority to recover the appellant's costs on the basis that it had acted unreasonably in issuing the notice resulting in unnecessary expense to the appellant.

The Inspector found no conflict between the Council's action and the relevant guidance in PPG18, considering that unreasonable behaviour had not been demonstrated and accordingly refused the application for an award of costs.