

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

**SECTION 1: Planning Applications**

**SECTION 2: Planning Appeals**

In accordance with the provisions of Section 100D of the Local Government Act 1972, BACKGROUND PAPERS are the contents of the files whose registration numbers are quoted at the head of each report, but this does not include material which is confidential or exempt (as defined in Sections 100A and D of that Act, respectively).

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## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

1. The issues of fact raised by the Head of 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 Head 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.** 9/2012/0492/FM

**Applicant:**

Mr K.L.R Towler  
1 Ingleby Lane  
Ticknall  
Derby

**Agent:**

Mr Doug Rutter  
Sycamore Villa  
36 Main Street  
Linton  
Swadlincote

**Proposal:** The erection of a detached dwelling at 1 Ingleby Lane  
Ticknall Derby

**Ward:** REPTON

**Valid Date:** 08/06/2012

**Reason for committee determination**

*Members will recall this case being deferred at the meeting of 7 August for a visit to the site to take place. There have been no changes to the report.*

The application is brought to Committee at the request of Councillor Stanton as local concern has been expressed about an issue.

**Site Description**

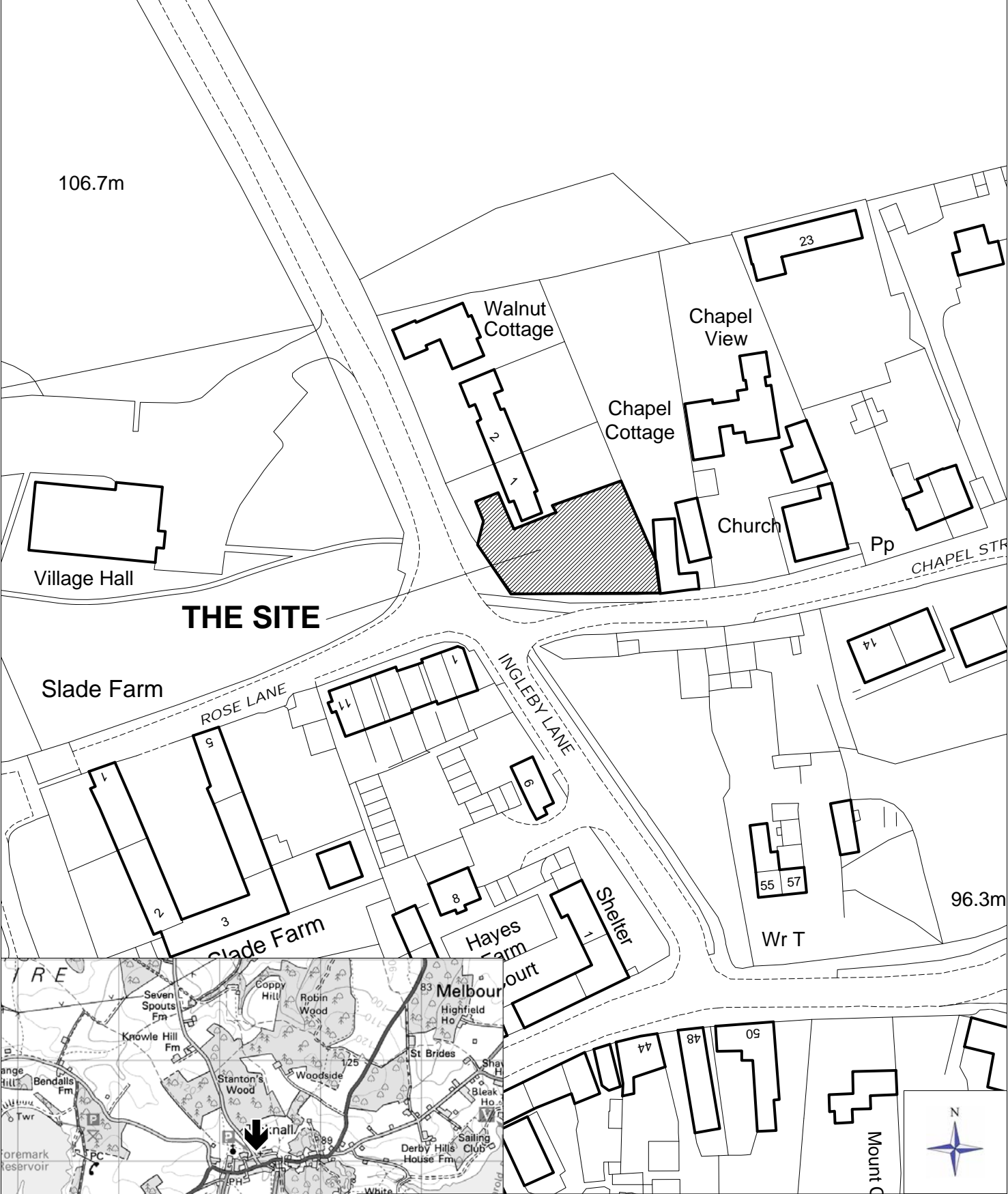
The application site lies within Ticknall Village confines and within the Conservation Area. The site is situated on the corner of Ingleby Lane and Chapel Street and forms the side garden of No. 1 Ingleby Lane, a Council owned property with an application currently being considered under the Right to Buy Scheme.

The site is surrounded by residential properties on three sides, the nearest being Chapel Cottage which abuts the eastern boundary, the rear of which is set approximately 1m lower than the application site. Ticknall Village Hall and car park is located to the east.

The site has an existing vehicular access via a field gate into the garden but there is no formal on site provision for parking for 1 Ingleby Lane.

There are a number of trees on site consisting of spruce, leylandi, willow and eucalyptus with a prominent mature holly tree on the corner.

A foul sewer runs north/south across the site and the submitted details indicate that this is to be the subject of a diversion or Building over Agreement with Severn Trent.



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**South Derbyshire District Council. LA 100019461. 2010**

## **Proposal**

The application proposes the erection of a two-storey, four-bedroom dwelling with an attached double garage. A new, shared access would be provided from Ingleby Lane providing two parking spaces for the existing dwelling and a garage and parking for the proposed dwelling. The existing holly tree would be retained along with the majority of the hawthorn and holly hedge that fronts 1 Ingleby Lane.

## **Applicants' supporting information**

A Design and Access Statement has been submitted with the application which advises that the design and siting of the proposed dwelling is such that adjoining houses will suffer no detrimental impact and the village will gain a valuable unit to its housing stock.

The hawthorn hedge on the Ingleby Lane boundary will be reinforced and the post and wire fence on the Chapel Street boundary will be replaced with a new natural stone wall to match the traditional stone walls within the locality. The mature holly tree on the corner of Ingleby Lane/Chapel Street will be retained and protected during construction.

## **Planning History**

There is no relevant planning history.

## **Responses to Consultations**

The Conservation Officer has commented that there is nothing about the site that gives it any locally distinctive character and has no objection to development of the site as proposed.

The Highway Authority is satisfied that appropriate visibility splays and parking can be achieved and has no objection subject to conditions.

The Development Control Archaeologist has advised that there is a high potential for below-ground archaeology and recommends a condition for a scheme of archaeological work.

Severn Trent Water has no objection.

Ticknall Parish Council objects for the following reasons:

- The design is not in keeping with the surroundings.
- The house will be overbearing.
- It is overdevelopment and too large for the plot.
- The entrance will be unsafe.
- The house will dominate the streetscene looking up the hill from Main Street currently screened by foliage.

## **Responses to Publicity**

Three letters of objection from two properties have been received and are summarised as follows:

- a. The site description understates the size and quantity of trees and shrubs in the garden.
- b. The suitability of the location and building plot, close to the proximity of established and historic housing, will impact negatively on the overall character of Chapel Street and Ticknall village.
- c. There is a question as to the value of the village's housing stock of the new building, being a large property rather than an affordable house.
- d. The access will be in close proximity to the crossroads and the village hall pedestrian access which is a safety hazard.
- e. 1 Ingleby Lane and Chapel Cottage are distinct buildings of completely different eras and styles. The new building resembles neither and compromises the distinction between the two.
- f. The new building will be higher, accentuated by the change in ground level of approximately 1m higher than Chapel Cottage with overshadowing further accentuated by the 1.5m of the extra building height.
- g. Overlooking.
- h. The patio to the rear of Chapel Cottage is 1m lower and previous building work has identified that the limestone bedrock is 0.5 below the surface. The ground stability will be compromised by the excavation of foundations for the new building.
- i. Overshadowing of 3 first floor windows facing west from Chapel Cottage.
- j. The new building will remove the view of the south facing façade of Chapel Cottage within the context of Chapel Street.
- k. This will be a large family home with little garden.
- l. There is a lack of consistency in the architectural plans of the property, a mismatch of windows and the details of the house are not in keeping with architecture in the village or immediate housing.
- m. There are toads and bank voles in the area. Bats have been observed flying over the plot and in adjacent gardens in Chapel Street which will adversely impact the availability of foraging and commuting habitat.
- n. Ticknall is renowned for its rows and clusters of modest and informal cottages, loosely arranged on straggling roads. The proposal will have a negative effect on the architecture and character of the village and on tourism in the village, e.g. walkers and artists and the economy.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Housing Policy 5 & 11, Environment Policy 9 & 12, Transport Policy 6.

East Midlands Regional Plan: 1, 2, 3 & 27

## **National Guidance**

NPPF paragraphs

49, 53, 55, 56, 131 & 137

## **Planning Considerations**

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

- Principle of development
- Design and Impact on Conservation Area

- Impact on residential amenity
- Access and parking

## **Planning Assessment**

### Principle

Housing Policy 5 allows for new housing development within the village confines providing the development is in keeping with the scale and character of the settlement.

NPPF paragraph 49 advises that housing applications should be considered with a presumption in favour of development and at paragraph 55 advises that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. At paragraph 53 the guidance advises inappropriate development of residential gardens, particularly where development would cause harm to the local area, should be resisted.

The application site lies in a sustainable settlement within Ticknall village confines with good access to existing local facilities and public transport. The development of the site would assist in sustaining these existing local services. Whilst the development would lead to the loss of a green space, the majority of trees on site are garden trees not considered worthy of a tree preservation order. The proposal has been designed to be sympathetic to its context and would provide a transition in building styles between the mid 20<sup>th</sup> century local authority housing and the more traditional housing on Chapel Street. The prominent holly tree would be retained and the existing hedgerow reinforced to maintain an element of the existing vegetation and assist in assimilating the development into its surroundings.

The principal of development is therefore considered to be in accordance with policy and guidance subject to acceptable design and appearance.

### Design and Impact on Conservation Area

Environment Policy 12 seeks to protect the character and appearance of conservation areas from adverse effect. NPPF paragraph 131 advises account should be taken of the desirability of new development making a positive contribution to local character and distinctiveness and at paragraph 137 advises proposals that preserve elements of the setting of a conservation area that make a positive contribution to or better reveal the significance of the asset should be treated favourably. The guidance at paragraph 56 emphasises that good design is a key aspect of sustainable development and should contribute positively to making places better for people.

The application follows on from pre-application discussions with the Conservation Officer with a view to making the house suitable to its context and has been submitted as discussed. The ridge height strikes a balance between the ridge heights of the adjacent properties, the single storey element turns the corner to acknowledge the alignment of the pair of houses next door, and the front boundary wall is designed to follow the common Ticknall pattern. The overall form, two storeys and double fronted, is common in the village, as is the mixture of sash windows on formal parts of a building (especially fronts) with casements elsewhere. The scheme has been amended to subdivide the front sash windows with a single vertical glazing bar in the centre of each sash to be more in keeping with the surrounding area.

The design and form is characteristic of other properties within Ticknall village and the proposed development would not lead to any significant adverse impact on the character and appearance of the conservation area and is considered to be in accordance with the above policy and guidance.

#### Impact on residential amenity

Chapel House is situated to the east of the site with first floor bedroom windows overlooking the application site. The scheme has been amended to obscure glaze the side windows and roof of the proposed conservatory to the rear of the new dwelling to avoid loss of privacy to the proposed occupiers. The scheme complies with the Council's minimum distance requirements in relation to overlooking and overbearance with neighbouring dwellings. Sufficient private amenity space would be provided for the proposed dwellings and the proposal accords with the requirements of Housing Policy 11.

#### Access and parking

Satisfactory visibility splays would be provided to the new access from Ingleby Lane along with suitable parking provision for both the existing and proposed dwelling. The existing field gate access would be moved to Chapel Street to maintain access to the foul sewer on site for Severn Trent should this still be required. The Highway Authority has no objection and the proposal is in accordance with the requirements of Transport Policy 6.

#### Other Matters

A number of trees would be removed from the site to allow for the development however the trees are not of such significant merit and amenity value that they are considered worthy of a tree preservation order. The most prominent tree, the holly, is to be retained and is protected by its conservation area status and measures for its protection during construction could be conditioned. Circular 06/2005 advises that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Although bats have been witnessed flying in the locality the trees on the site are not of the kind identified in Natural England's Standing Advice as being conducive to bat roosts.

#### Conclusion

The proposal is considered to be in accordance with the above policy and guidance and is therefore recommended for approval.

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 submitted site plan 2143.4 which retains the existing mature holly tree to the front of the site unless otherwise agreed in writing with the Local Planning Authority.  
Reason: In the interests of the appearance of the area.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 2143.7A and 2143.8A received 26 July 2012.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
4. 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 and the hard landscaping have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and the hard landscaping carried out prior to occupation.  
Reason: In the interests of the appearance of the building and the locality generally.
5. Notwithstanding the particulars of the application, revised details of the front door and doorcase shall be submitted for approval in writing by the Local Planning Authority prior to their use in the building operations.  
Reason: The submitted details are considered unsatisfactory.
6. Large scale details to a minimum scale of 1:10 of all external joinery, including horizontal and vertical sections, configuration of opening lights and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The items shall be constructed in accordance with the approved details.  
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
7. 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.
8. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

9. 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.

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

10. Separate sample panels of pointed brickwork and stonework 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority before the work is generally executed. The brickwork sample shall include a bonding pattern to be used at least on the south and west elevations. The sample of the stonework shall include a run of the proposed stone coping detail at least 600mm long, and details of the stone proposed for use on the brick terminations of the boundary wall.

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

11. A sample of the obscure glass (if any) to be used in the south elevation en suite bathroom window shall be agreed with the Local Planning Authority prior to installation.

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

12. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

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

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

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

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

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

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

16. A) No development shall take place until a Written Scheme of Investigation for archaeological monitoring has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording;
  2. The programme and provision to be made for post investigation analysis and reporting;
  3. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  4. Provision to be made for archive deposition of the analysis and records of the site investigation; and
  5. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

B) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under Part A.

C) Within a period of 12 weeks from completion of the development the archaeological site investigation and post investigation analysis and reporting has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part A and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

17. Before any other operations are commenced a new vehicular access to Ingleby Lane shall be created in accordance with the submitted application drawings.

Reason: In the interests of highway safety.

18. Before any other operations are commenced (excluding the creation of the new access, the subject of Condition 17 above), the existing vehicular access to Ingleby Lane shall be permanently closed with a physical barrier and the existing vehicular 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.

19. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the submitted

application drawings for the parking of residents' vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

20. Notwithstanding the submitted details, no part of the development shall be carried out until details of the hard landscaping to be used in the development hereby permitted have been submitted and approved in writing by the Local Planning Authority. The details shall include provision for a porous surface surrounding the holly tree to be retained to the front of the site. The works shall be carried out in accordance with the approved details prior to occupation of the development.

Reason: In the interests of the appearance of the area and the health and preservation of the tree.

21. Notwithstanding the submitted information, prior to commencement of development details of a scheme for the construction of foundations for the single storey south west section of the building which includes the kitchen, larder and garage shall be submitted to and

approved in writing by the Local Planning Authority. The scheme should include measures to ensure minimal impact on the root protection area of the holly tree. The works shall be carried out in accordance with the approved scheme.

Reason: To safeguard the health of the tree.

22. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the holly tree to be retained 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 tree from undue disturbance

23. There shall be no tipping or deposition of materials within the area fenced under Condition 22 above without the prior written authorisation of the local planning authority.

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

24. The east elevation window and roof of the conservatory shall be permanently glazed in obscure glass.

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

Informatives:

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 Gail Mordley on 01629 538537 for further information.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In

the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

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.

**Item** 1.2

**Reg. No.** 9/2012/0493/FM

**Applicant:**

Mr A.S. Lehal  
Barlestone Road  
Newbold Verdon  
Leicestershire  
LE9 9NF

**Agent:**

Mr David Raybould  
David Raybould & Associates  
23a West Street  
Derbyshire  
Swadlincote  
DE11 9DG

**Proposal:** The addition of a first floor and conversion to four flats  
at 2 Rose Tree Lane Newhall Swadlincote

**Ward:** NEWHALL & STANTON

**Valid Date:** 08/06/2012

**Reason for committee determination**

The application is brought before Committee at the request of Councillor Bambrick because local concern has been raised about a particular issue.

**Site Description**

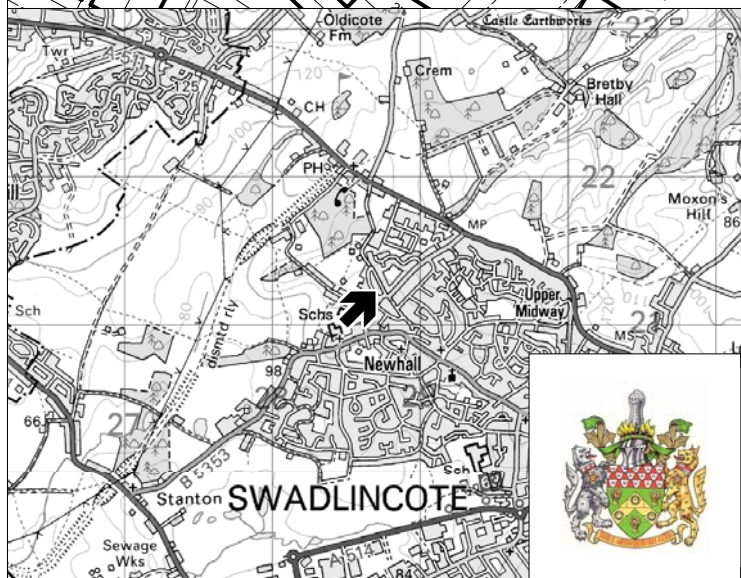
The site is located on Rose Tree Lane, immediately behind the shop which has recently been constructed on the corner of Rose Tree Lane and Bretby Road, Newhall. There is currently an unoccupied pitched roof 3-bedroom bungalow on site with a 4-5m high conifer hedge along the majority of the Rose Tree Lane frontage. Rose Tree Lane is narrow with no footpaths.

**Proposal**

Planning permission is sought for the erection of a first floor extension and conversion into four 2-bedroom flats. Four car parking spaces are proposed on the site's frontage on Rose Tree Lane and the garden area would be retained for amenity spaces for the residents.

**Applicants' supporting information**

Design and Access Statement – This includes a site description, details of local facilities and services and an assessment of why the proposal is acceptable in terms of streetscene, residential amenity and parking.



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South Derbyshire District Council. LA 100019461. 2010

## **Planning History**

9/2010/0227 - The demolition of existing convenience store with accommodation over and demolition of adjacent bungalow. The construction of new convenience store with five apartments above, refused 17/5/10

9/2009/0314 - The demolition of existing building and the erection of a retail unit with six residential units above, withdrawn 11/6/09

9/2009/0058 - The demolition of existing building and the erection of a retail unit with six residential units above, withdrawn 11/3/09

9/2007/1328 - The demolition of existing shop and the erection of shop and two residential units above, granted 7/4/08

## **Responses to Consultations**

The Highway Authority notes that the planning history associated with the site is closely linked to 51 Bretby Road. The redevelopment of the two sites combined has been the subject of a number of applications 9/2009/0058, 9/2009/0314 and 9/2010/0227 to provide an increase in the retail space plus 6 and then 5 flats. None of the above applications were approved and the only consent granted was for the redevelopment of 51 Bretby Road to form a replacement store with two flats above. However, on the basis that the Authority did not raise objections to the applications, which would have resulted in not only six flats but also an increase in retail floorspace, it is not considered that an objection on highway safety grounds could be sustained. Therefore there are no objections subject to the imposition of conditions relating to the car park, visibility on the frontage and informatives in relation to works within the highway.

Severn Trent Water has no objections.

## **Responses to Publicity**

Two letters of objection have been received. Concerns relate to the lack of a site notice, overlooking of property and loss of privacy, overshadowing, design not in keeping with the 'cottage style' dwellings on the Lane, potential impacts on utilities and increase in vehicles and parking on the lane.

## **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan Policies 3, 12 & 48.

South Derbyshire Local Plan Saved Housing Policies 4 & 11 and Transport Policy 6.

## **National Guidance**

NPPF Paragraphs 11-14, 17 and Chapters 6 and 7.



## **Planning Considerations**

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

- Residential Amenity
- Streetscene
- Car Parking

## **Planning Assessment**

The site is located in the built up area and housing development is thus favoured, in principle, by Policies 3 & 12 of the East Midlands Regional Plan, Local Plan Saved Housing Policy 4 and Chapter 6 of the NPPF.

### Residential Amenity

In respect of the impact of the proposal on the residential amenity of neighbouring properties, neither 10 Rose Tree Lane to the north west nor the flat development to the south east have any windows on the elevations facing the site. The proposal involves the insertion of ground floor and first floor bathroom windows, which would be obscure glazed on the north western (side) elevation. Overlooking and overshadowing are thus not considered to be significant. Two bedroom windows are proposed on the rear elevation. However, due to their distance from the boundary, any overlooking of the garden area of No. 10 would be minimal.

The rear elevation of the flats would be 7-8 metres from the rear boundary with the garden area of No. 51A Bretby Road and there is a 2m high hedge on this boundary. Overlooking to this property would not be significant. The proposal meets the tests of supplementary planning guidance and the amenities of neighbours would thus be adequately protected in accordance with Local Plan Saved Housing Policy 11, which also seeks to provide for the development of adjacent undeveloped land. In this case there is undeveloped land fronting Thorntree Lane, the potential development of which would not be unduly prejudiced by the application proposal.

### Streetscene

The proposed conversion and extension retains the openings on the ground floor and proposes new openings on the first floor which are smaller and in general alignment with the existing openings. Rose Tree Lane is characterised by two-storey gabled roof properties tight onto the road. The scale and design of this proposal is thus considered acceptable and due to its set back of 6m from the road it would not dominate the streetscene. As such the proposal is of suitable scale and character in accordance with the requirement of Local Plan Saved Housing Policy 4 and Chapter 7 of the NPPF.

### Car Parking

The Highway Authority has assessed its comments to previous applications for the shop and flat development to the south east and these have formed the basis of the consultation response. The scheme that has been implemented in accordance with the 2007 permission is for a shop with two flats above, with two parking spaces on Bretby Road. Although permissions for a larger number of flats were never approved, the

Highway Authority did not object to increased numbers of flats at the premises. This proposal for four flats with four car parking spaces on the site frontage is therefore considered acceptable and the Highway Authority raises no objections. On this basis the proposal is compliant with Local Plan Saved Transport Policy 6, which requires adequate access and parking provision.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building 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.

3. Prior to the occupation of the first flat, the car parking space shall be provided within the site curtilage, laid out in accordance with the application drawing no. 2505/12/4530/sp and maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

4. Prior to the occupation of the first flat, the entire frontage shall be cleared, and maintained clear, of any obstruction exceeding 600mm in height relative to the road level for the first 2m into the site from the highway boundary in order to maximise visibility available to drivers emerging from the site onto the public highway.

Reason: In the interests of highway safety.

5. Gutters and downpipes shall have a black finish.

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

6. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

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

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

#### Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Environmental Services Department at County Hall, Matlock (telephone 01629 538595) before any works commence on the vehicular access within highway limits.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures should be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

**Item**            **1.3**

**Reg. No.**        **9/2012/0518/FM**

**Applicant:**  
Mr & Mrs J Howard

**Agent:**  
Miss Beverley Pemberton  
Design & Materials  
8 The Point  
Coach Road  
Shireoaks  
Worksop

**Proposal:**        **The erection of a detached dwelling on land adjacent to  
5 Beaumont Close Barrow on Trent Derby**

**Ward:**            **ASTON**

**Valid Date:**      **18/06/2012**

#### **Reason for committee determination**

The application is reported to Committee at the request of Councillor P Watson because local concern has been expressed about a particular issue.

#### **Site Description**

Beaumont Close is a cul-de-sac of modern detached houses dating from the early 1980s, although there is also a traditional property, Barrow House. The application site is part of the large garden to No 5 Beaumont Close, which lies at the head of the cul-de-sac. The site lies outside, but adjacent to, the Barrow on Trent Conservation Area and within the village confine as defined in the South Derbyshire Local Plan Proposals Map. Part of the site boundary is formed by outbuildings to the Grade II listed The Walnuts.

#### **Proposal**

A detached house is proposed. Its architectural style and scale is reflective of the existing modern dwellings in Beaumont Close. A two-storey design is employed. Whilst the roof space would be provided with a single gable window facing No 5, there is no floor plan for living accommodation and the stairs would not facilitate access to a habitable room in the roof. Vehicular access would be shared with No 5. The layout drawing was amended following an accurate survey of the positions of neighbouring dwellings.

#### **Applicants' supporting information**

Other than the statutory Design and Access Statement, no supporting information has been supplied.

**9/2012/0518 - Land adjacent to 5 Beaumont Close, Barrow on Trent,  
Derby DE73 7HQ**



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**South Derbyshire District Council. LA 100019461. 2010**

## **Planning History**

SED/1263/5 Outline residential development – refused.

9/776/542 6 houses – permitted.

9/780/663 2 houses – permitted.

## **Responses to Consultations**

The Parish Council requests a site visit by Committee and raises the following objections:

- Size of the property is not in scale with the plot
- Proximity of the proposed development to neighbours, from the plans the new build is only 1m away from a wall that is in the conservation area
- Overshadowing of the properties in Club Lane
- Size of access to the property is only 2.8m and this will be a shared access
- Back in 1979 when the plans were first submitted for Beaumont Close the application was for 12 properties, this was rejected at the time by the planning department due to the density of the housing and permission was granted for 6 dwellings.
- This development will look out of place and not in keeping with the local vernacular, it will look out of place as you look down Beaumont Close instead of seeing an open plan development you will see a block of buildings.

The Highway Authority, Severn Trent Water Ltd and the Environmental Health Manager have no objection subject to conditions.

## **Responses to Publicity**

Letters of objection have been received from 3 neighbours:

- a) Local Plan Saved Housing Policy 5 requires development in villages to be in keeping with the scale and character of the settlement. The character of Beaumont Close is defined by large houses in generous landscaped plots, with an air of low-density spaciousness. The proposed dwelling would be a contrived design squeezed into a narrow side garden, fundamentally disturbing the existing character and reducing the gardens to narrow and awkwardly configured spaces. The dwelling is of standard design having no locally distinctive features that would give it a sense of place.
- b) There would be accommodation on three floors, dominating the plot.
- c) The dwelling would be overbearing to neighbours and there would be overlooking and loss of privacy and light contrary to Saved Housing Policy 11, which requires new housing to have reasonable amenities in terms of light, air and privacy for both existing and new dwellings.
- d) Gardens to properties in Club Lane have small gardens, which would be overshadowed.
- e) The site is an area at risk of flood. (Comment: The site is not identified as being at high risk of flood on the Environment Agency's maps).
- f) There was no prior consultation with neighbours, contrary to the application form.
- g) The village has few facilities and is not a sustainable location for new development.
- h) The amended drawing exacerbates overlooking to No 6 Club Lane.

- i) The development would have an adverse impact on the conservation area.

## **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan Policies 3 & 27

South Derbyshire Local Plan Saved Housing Policies 5 & 11, Transport Policy 6 and Environment Policies 12 & 13.

## **National Guidance**

National Planning Policy Framework (NPPF) Paragraphs 11-14 (presumption in favour of sustainable development), 206 (planning conditions), Chapters 6 (housing), 7 (design) & 12 (historic environment).

## **Planning Considerations**

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

- The principle
- Impact on the character of the locality and the historic environment
- Residential amenity
- Access and highway safety

## **Planning Assessment**

### The principle

East Midlands Regional Plan Policy 3 has a strategic objective of concentrating new development primarily in and adjoining the region's principal urban areas, whilst acknowledging that development in rural areas should also be provided for. Saved Housing Policy 5 of the Local Plan states that housing in villages will be restricted to within the village confine, provided that it is of scale and character in keeping with the settlement. Chapter 6 of the NPPF seeks to significantly boost the supply of housing to deliver a wide choice of high quality homes, with housing applications to be considered in the context of the presumption in favour of sustainable development (paragraphs 11-14). Barrow on Trent does not have a wide range of local facilities but Paragraph 55 of the NPPF acknowledges that development in one village may support services in a village nearby. Willington is about 6 km to the west, with Melbourne a similar distance to the south-east. Therefore the site is in a location where, in principle, residential development is acceptable.

### Impact on the character of the locality and the historic environment

Saved Housing Policy 5 of the Local Plan requires housing in villages to be of scale and character in keeping with the settlement. Saved Housing Policy 11 of the Local Plan sets out criteria for new housing development, to provide a reasonable environment for the public at large, reasonable amenities for existing and new dwellings, safe functional and convenient layouts, private amenity space and space for landscaping, adequate public open space and for the development of suitable adjoining land.

Chapter 7 of the NPPF, whilst seeking to reinforce local distinctiveness, advises local planning authorities not to impose architectural styles or particular tastes. The immediate character of the site is defined by the existing suburban layout of Beaumont Close. In this context the new house would be in keeping with the scale and character of the area, preserving a reasonable environment for the public at large. For the same reason there would be no adverse impact on the character or appearance of the conservation area, nor to the setting of the nearby listed building, in accordance with Regional Plan Policy 27 and Local Plan Saved Environment Policy 12, both of which are consistent with Chapter 12 of the NPPF, seeking to conserve the historic environment.

#### Residential amenity

The scheme has been designed so as to comply with supplementary planning guidance. This is achieved by locating the two-storey bulk of the dwelling some 3.2 m from the boundary wall separating the plot from dwellings in Club Lane and by avoiding windows that directly overlook neighbouring windows. The gardens for both the new house and no 5 would remain considerably larger than is usual for new housing, providing reasonable amenities and private space for existing and new dwellings as required by Local Plan Saved Housing Policy 11.

A condition removing permitted development rights for external alterations would ensure that no windows are inserted in the future without the local planning authority having the opportunity to consider their impact on neighbours.

#### Access and highway safety

Local Plan Saved Transport Policy 6 seeks adequate access and parking. On the advice of the Highway Authority there would be no demonstrable harm to highway safety, subject to the recommended conditions.

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

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. 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.

3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. H216/2 Rev F and the submitted drawing no. H216/1 Rev D.

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

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

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

5. Gutters and downpipes shall have a black finish.

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

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, no windows (other than as shown on the submitted drawing H216/1 rev D) or rooflights shall be inserted or installed in the dwelling without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

7. The window serving the bathroom and en-suite in the east side elevation shall be permanently glazed in obscure glass.

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

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

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

9. Prior to any other works commencing, the access shall be widened to 3.9m at its junction with the public highway and to 4.25 m once within the site for the first 5m, after which the driveway shall be laid out in accordance with the application drawing and maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

10. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilages of both the new and the existing dwellings. Thereafter two parking spaces, each measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling.

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

**Item**            1.4

**Reg. No.**        9/2012/0520/FH

**Applicant:**  
Mr & Mrs J Howard

**Agent:**  
Miss Beverley Pemberton  
Design & Materials Ltd  
8 The Point  
Coach Road  
Shireoaks  
Worksop

**Proposal:**        **The erection of an attached garage at 5 Beaumont  
Close Barrow on Trent Derby**

**Ward:**            **ASTON**

**Valid Date:**     **18/06/2012**

**Reason for committee determination**

The application is reported to Committee at the request of Councillor P Watson because local concern has been expressed about a particular issue.

**Site Description**

The application property is one of a cul-de-sac of modern detached houses dating from the early 1980s.

**Proposal**

An attached garage is proposed to the side of the existing detached house. It would be flat roofed and 2.7 m high, projecting beyond the rear wall of the existing house by 2.1m.

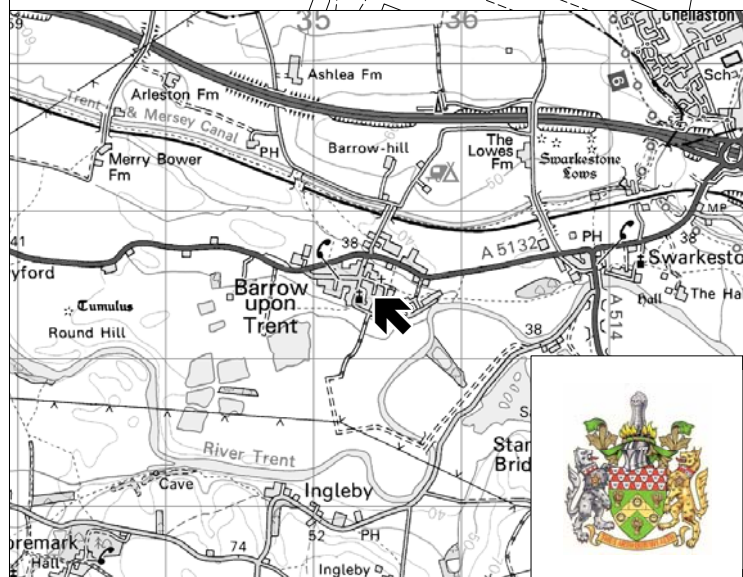
**Applicants' supporting information**

None.

**Planning History**

SED/1263/5 Outline residential development - refused.  
9/776/542 6 houses - permitted.  
9/780/663 2 houses - permitted.

9/2012/0520 - 5 Beaumont Close, Barrow on Trent, Derby DE73 7HQ



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South Derbyshire District Council. LA 100019461. 2010

## **Responses to Consultations**

The parish Council objects as follows:

- a) The garage would be built up to the boundary.
- b) There would be inadequate parking. On street parking is of concern in the close.
- c) The garage would be out of character with others in the area and would appear squashed in.
- d) Access width is only 2.8m.

## **Responses to Publicity**

None.

## **Development Plan Policies**

The relevant policy is:

South Derbyshire Local Plan Saved Housing Policy 13.

## **National Guidance**

None directly relevant.

## **Planning Considerations**

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

- Impact on the character of the dwelling and the area
- Fallback position

## **Planning Assessment**

### Impact on the character of the dwelling and the area

The garage would be of modest scale with minimal impact on the dwelling and the general character of the area, in accordance with Saved Housing Policy 13. Adequate parking would be retained within the curtilage.

### Fallback position

Whilst the applicant has applied for planning permission the proposal meets the relevant tests for permitted development. Therefore, should an application for a Lawful Development Certificate be submitted it would have to be granted as a matter of fact and law.

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. 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.

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

**Item**            1.5

**Reg. No.**        9/2012/0579/FH

**Applicant:**

Mr Martin Hicks  
13 Cedar Grove  
Newhall  
Swadlincote

**Agent:**

Mr Martin Hicks  
13 Newhall  
Cedar Grove  
Swadlincote

**Proposal:**        **The erection of an extension to dwellinghouse and replacement of existing garage at 13 Cedar Grove Newhall Swadlincote**

**Ward:**            **NEWHALL & STANTON**

**Valid Date:**      **03/07/2012**

**Reason for committee determination**

Councillor Bambrick has requested that the application be determined by Committee as local concern has been expressed about a particular issue.

**Site Description**

The application property is a detached bungalow in a row of similar properties (consecutive 10-14), all with single garages to the rear.

Cedar Grove has a gradual slope from its east to west. This is mirrored by the land levels on which the dwellings are positioned.

**Proposal**

The proposal would involve a rear pitched roof extension, projecting 3.3 m from the rear wall of the dwelling, and a replacement garage. The proposal would also involve the insertion of a study window in the side of the existing bungalow.

**Applicants' supporting information**

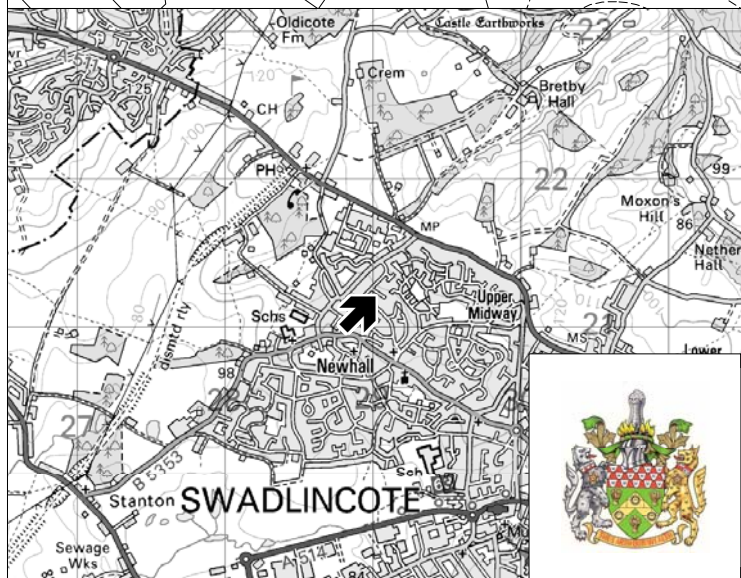
None

**Planning History**

None relevant.

**Responses to Consultations**

None



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South Derbyshire District Council. LA 100019461. 2010

## **Responses to Publicity**

An occupier of a property opposite the application property has no objection to the proposal.

Two neighbours object on the grounds that;

- i) the rear extension to the dwelling will impact on their privacy due to the proposed study window, and
- ii) the rear extension will cause loss of light to rooms of their property, and
- iii) the design of the rear extension is not in keeping with the locality.
- iv) the building works would result in too much adverse impact upon the road in terms of skips and parking.

## **Development Plan Policies**

The relevant policy is South Derbyshire Local Plan Saved Housing Policy 13.

## **National Guidance**

None directly relevant.

## **Planning Considerations**

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

- The design of the proposed scheme.
- The affect the property would have on the amenities of neighbouring properties.

## **Planning Assessment**

The garage and rear extension would be largely obscured from public view and would be in keeping with the host property, with little or no impact on the general character of the area, in accordance with Saved Housing Policy 13.

The proposal conforms to the relevant distance guidelines between main windows as set out in supplementary planning guidance. However the proposed side facing study window would look onto the side elevation of No. 14 Cedar Grove, which has three secondary windows. This could be resolved by a condition requiring a suitable screen to be erected on the boundary.

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. 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.

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

3. Before the extension is first occupied a screen fence shall be erected so as to preclude overlooking between the proposed study window and the windows in the side wall of No 14 Cedar Grove, in accordance with details and specifications which shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: To maintain privacy between the two dwellings.

#### Informative:

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. 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 Coal Authority permission for such activities is trespass, with the potential for court action. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

**Item**            **1.6**

**Reg. No.**        **9/2012/0582/TP**

**Applicant:**

SDDC Housing Department  
Civic Offices  
Civic Way  
Swadlincote  
Derbyshire

**Agent:**

Mr Martin Buckley  
SDDC  
Civic Offices  
Swadlincote  
Civic Way  
Derbyshire

**Proposal:**        **The pruning of a lime tree covered by South Derbyshire District Council Tree Preservation Order Number 195 at 105 George Street Church Gresley Swadlincote**

**Ward:**            **CHURCH GRESLEY**

**Valid Date:**      **02/07/2012**

**Reason for committee determination**

The Council is the applicant and the trees are affected by a Tree Preservation Order on Council owned land.

**Site Description**

The application property is a mid terrace dwelling fronting a commonly used thoroughfare through Church Gresley. The Lime Tree in question is situated in the front garden.

**Proposal**

The works would involve:

- Crown clean - Removal of all branches from the main bole and from around the wires.
- Clean out interlocking branches.
- Crown lift to 6 m, lifting the crown to main unions.
- Clear street furniture – cut back branches overhanging and blocking illumination from the adjacent street light.

**Applicants' supporting information**

A survey and appraisal has been submitted which concludes that the Lime Tree is interfering the with overhead power cables and street lighting as well causing a nuisance to those using the footpath due to its overhanging branches.

9/2012/0582 - 105 George Street, Church Gresley, Swdalincote DE11 9NZ



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**South Derbyshire District Council. LA 100019461. 2010**

## **Planning History**

None.

## **Responses to Consultations**

None.

## **Responses to Publicity**

An adjoining neighbour comments that the tree is in need of pruning as the leaves block the guttering to their property and the branches are interfering with overhead power cables. Sap from the tree also causes a constant mess and the tree roots must now be under the dwelling foundations.

## **Development Plan Policies**

None relevant.

## **Planning Considerations**

The issue central to the determination of this application is whether the work is warranted given the protective designation.

## **Planning Assessment**

The works are necessary in order to protect public safety and would be proportionate, so as to retain the tree's high amenity value.

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** consent subject to the following conditions:

1. The works hereby granted consent shall be carried out within two years from the date of this permission.  
Reason: To enable the Local Planning Authority to retain control over the works.
2. The works hereby granted consent shall be carried out in accordance with the British Standards Institute recommendations for tree work, a copy of the relevant sections being enclosed.  
Reason: In the interest of the health and safety of the trees.

**Item** 1.7

**Reg. No.** 9/2012/0602/NO

**Applicant:**

Mr Peter Stevenson  
Hilltop Farm  
Ashby Road  
Woodville  
Swadlincote

**Agent:**

Mr Bill Jennings  
JDA Architects  
The Warehouse  
Saxon Street  
Denton  
Manchester

**Proposal:** The erection of an 'endurance-e-3120' 24.6m (34.2m to blade tip) wind turbine at Hilltop Farm Ashby Road Woodville Swadlincote

**Ward:** WOODVILLE

**Valid Date:** 11/07/2012

**Reason for committee determination**

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

**Site Description**

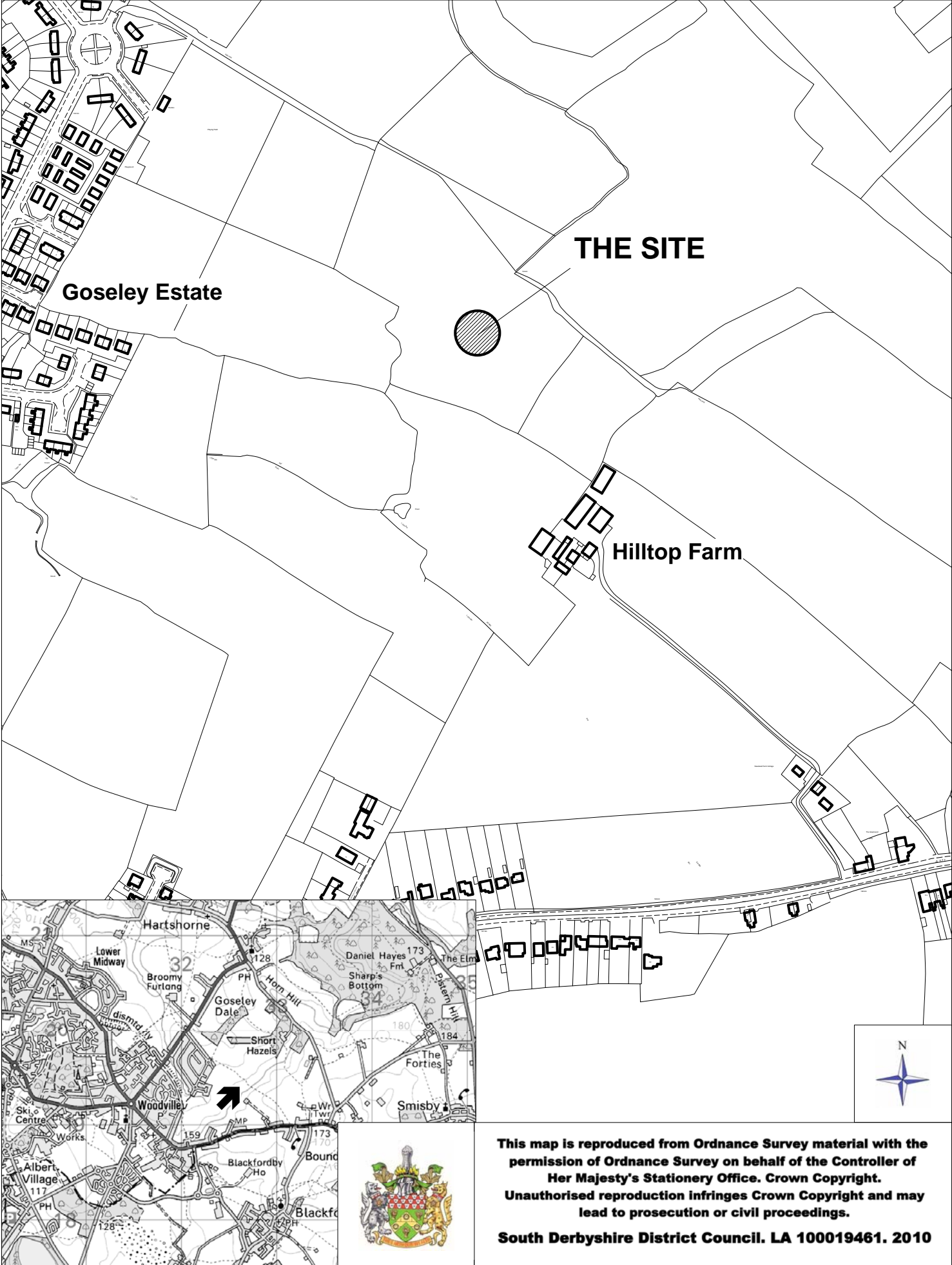
The site is within a field approximately 190m north west of the nearest agricultural building at Hilltop Farm. The Goseley Estate is to the north west and Hartshorne Footpath 4 runs along the edge of the field to the north east. The field is relatively flat with higher land surrounding it in all directions.

**Proposal**

The proposed mast would be some 24.6m (80.7ft) to the hub and when a blade is in the upright position the overall height would be 34.2m (112.2ft). The radius of the blades is 9.6m (31.5ft).

**Applicants' supporting information**

Design and Access Statement / Planning Statement includes the reasons for the application. The applicants require more financially viable ways to sustain the property and achieve its long-term stability and to break away from on-going rising energy costs. The document includes an assessment of planning policy and details of the criteria for site selection together with the proposed construction works. It makes the case for renewable energy in light of government guidance. Assessment of potential noise, shadow flicker is assessed and concludes that the location was chosen as to not cause



a nuisance or affect the amenity of others. The shadow flicker zone has been calculated and there are no properties within the zone of a 192m radius of the turbine. In terms of any implications for bats or birds the turbine would be located at the recommended distance from existing hedges and trees.

A landscape and visual assessment states that the site is reasonably contained by topography and its position on a hillside serves to minimise its visual impact and this is evidenced by viewpoints with the turbine superimposed on them.

The Noise Impact Assessment states that the predicted noise levels would be below those in recent guidance from UK Renewables and that of wind-related background noise levels. This indicates that the turbine is unlikely to cause noise disturbance to the nearest potentially noise-sensitive residential properties located 290m upwind of the proposed turbine.

The Ecological Appraisal advises that there is a potential low risk to bats (albeit without significant impact on local bat populations) and birds and recommends precautionary removal of 3 shrubs within the potential collision risk area and compensation hedgerow planting elsewhere on the farm and existing hedgerows trimmed outside the bird breeding season.

## **Planning History**

9/2004/1324 - The erection of a 14.3m high cypress tree style telecommunications mast with concrete base to support 6 antennas and up to 2 dishes with associated equipment housing cabinets and apparatus, No objection 29/11/04

## **Responses to Consultations**

Hartshorne Parish Council strongly objects to the above application.

The major concerns were-

- 1) The continual noise that will be created from the turbine, this will be 24 hours/7 days a week.
- 2) The close proximity to Goseley Estate, which is only a few hundred metres from the site.
- 3) The wind turbine will dominate the landscape in the area and is totally out of character.
- 4) The Goseley recreation ground is only one field away from the site. The recreation ground is extensively used by both football teams and young people using the play area and the MUGA.
- 5) In the Planning application it says only 10 homes are affected, the Parish Council disputes this statement as it appears to totally ignore the residents of Ninelands and other properties nearby. However this structure will be seen by most of the residents of Hartshorne Parish.
- 6) The views from both Goseley Estate and Manchester Lane will be spoilt as the turbine.
- 7) The Parish Council disputes the definition of the turbine as 'small' as it is stated as being over 30 metres high.
- 8) The Parish Council is concerned on the affects to television reception in the area.
- 9) Residents at the meeting were concerned about the impact on property

values in the area.

- 10) The Parish Council expressed concerns about the sustainability of such developments, and they could see no direct benefit to the immediate community.
- 11) The Parish Council is concerned about the close proximity to a public footpath which is well used by ramblers.
- 12) Access onto the site appears to be via the car park off Mount Road, this area of land is managed by the Parish Council and no permission has been sought by the developers.

The Environmental Health Manager has no objection.

East Midlands Airport has no objection subject to a condition requiring the applicant to notify the Local Planning Authority prior to the turbine commencing operation.

Derbyshire Wildlife Trust has no objection as the proposal does not affect a Local Wildlife Site and as such

The Coal Authority requires an informative.

### **Responses to Publicity**

Eighteen letters of objection have been received from surrounding residential properties and their concerns are summarised as follows: -

- a) The mast is too close to the urban area (within 400m)
- b) The mast will be seen from all over the Parish of Hartshorne and Woodville.
- c) The noise from the turbine would be heard from many properties especially at night when sound carries.
- d) It is next door to the Goseley recreation ground and there are problems with shadow flicker that can cause Epilepsy etc..
- e) There is a health and safety concern for children.
- f) No one knows the long term health affects from turbines.
- g) Properties nearby would be devalued.
- h) How would the turbine be transported to site and what access would be provided.
- i) No detailed local benefits are explained in the application.
- j) It is a green belt area.
- k) There would be loss of views, with the rotors protruding above the hedge line.
- l) There may be an effect on TV reception
- m) If the turbine is approved, many more will follow.
- n) The negative visual impact on what is generally a residential / rural area.
- o) The turbine would not be anywhere the minimum 1000 m from dwellings.
- p) Residents should have been notified. (Comment: Publicity was undertaken in accordance with procedure and site notices were placed on Ashby Road and Elmsdale Road.)

### **Development Plan Policies**

EMRP: Policies 1, 3, 12 & 40

Saved Local Plan: Environment Policy 1.

### **National Guidance**

NPPF paragraphs 11-14, 17, 97, 98, 110 and 123



Sections 5 of the Companion Guide to PPS 22.

## **Planning Considerations**

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

- The Development Plan and Government advice.
- Noise
- The impact of the proposal on the character and appearance of the countryside.
- Impact on ecological interests

## **Planning Assessment**

### The Development Plan and Government advice

The policy documents in terms of the Regional Plan and Government advice is directed more towards the provision of wind farms rather than individual turbines. The Regional Plan Policy 40 acknowledges that individual turbines can play a role in electricity generation. Government advice in Planning for Renewable Energy: A Companion Guide to PPS22 suggests a condition requiring the removal of such structures should they no longer be required for electricity generation.

The steer of the NPPF is to promote renewable energy and in paragraph 97 it states: *“To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources”*. Paragraph 98 states that local authorities should approve applications for renewable energy projects if its impacts are (or can be made) acceptable.

There is an overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3). Although these are primarily intended to inform the work of the Infrastructure Planning Commission on proposals for nationally significant energy infrastructure, they can be a material consideration in assessing applications such as this.

Local Plan Saved Environment Policy 1 favours development in the countryside if it is unavoidable there, subject to various criteria.

Therefore, in principle, planning policy generally supports this renewable energy scheme.

### Noise

Noise Policy Statement for England (NPSE) is an overarching policy statement for noise in England was published by DEFRA in 2010, in its introduction this policy states:

*“The Government is committed to sustainable development and DEFRA plays an important role in this by working to secure a healthy environment in which we and future generations can prosper. One aspect of meeting these objectives is the need to manage noise for which DEFRA has the overall responsibility in England.”*

The NPSE goes onto describe its long-term vision as being to:

*“Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development.”*

This long-term vision is supported by the following aims:

*Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development; avoid significant adverse impacts on health and quality of life; mitigate and minimise adverse impacts on health and quality of life; and where possible, contribute to the improvement of health and quality of life.*

The NPSE goes onto to provide useful advice on interpretation of its aims, including at paragraph 2.18 where it states: *“There is a need to integrate consideration of the economic and social benefit of the activity or policy under examination with proper consideration of the adverse environmental effects, including the impact of noise on health and quality of life. This should avoid noise being treated in isolation in any particular situation, i.e. not focussing solely on the noise impact without taking into account other related factors.”*

The Noise Assessment submitted has confirmed that the predicted noise levels are below the maximum suggested by recent guidance from UK Renewables and wind related background noise levels respectively. The Environmental Health Manager has no objection in relation to noise and the information accompanying the application suggests that at distances beyond 100m the turbine should not cause noise issues, the nearest dwelling is on Edward Street at 280m albeit Hilltop Farm is 190m away.

#### The impact of the proposal on the character and appearance of the countryside

The landscape character of the site is ‘Leicester and South Derbyshire Coalfields’ and the landscape type is ‘Coalfield Village Farmland’ and it is within the countryside in the Local Plan. Saved Environment Policy 1 states that *“outside settlements new development will not be permitted unless it is...(ii) unavoidable in the countryside; and the character of the countryside, the landscape quality, wildlife and historic features are safeguarded and protected”*.

A wind turbine of this size, by its very nature, requires a rural countryside location to generate sufficient wind capacity, to minimise impacts in terms of noise and shadow flicker to residential areas, and in order to avoid harm to wildlife. There is an impact on landscape quality and the visual amenity of the area, however, it is minimised by its location.

This mast would not be visible from the wider area, as the site occupies a relatively low location in the landscape and is surrounded by higher land. It is a slender structure which would not significantly harm the appreciation of the landscape and the defined landscape character makes it less sensitive to the presence of such a structure. It would only be visible from the urban area to the north west and south west, some properties off Ashby Road and Manchester Lane to the north east.

The application supporting information includes 11 viewpoints to the north east, north west and south west. The mast would be visible from properties on Beech Drive and Millfield Street. However, these properties do not face the site and have a higher land level. The nearest properties that do have rear elevations that back onto the fields are on Edward Street and Elmsdale Road at a distance of between 280-310 metres. The site would be visible from the public footpath Hartshorne FP 4 that runs parallel with the field boundary to the north east.

The proposal would not result in a prominent unwarranted intrusion into the countryside and the is generally in accord with the latest Government advice and the policies in the East Midlands Regional Plan in respect of renewable energy that makes provision for a small-scale facility such as this.

### Impact on ecological interests

The Ecological Appraisal has assessed the proposal in relation to any impacts on bats and birds and concludes that there is a potential low risk, though even without mitigation it is assessed that such a risk would not have a significant impact on local bat populations, because it would not affect a flight line associated with roost habitat. Nevertheless the recommendations for mitigation requires the removal of shrubs within the potential collision risk area, with compensatory hedgerow planting elsewhere on the farm and existing hedgerows trimmed outside the bird breeding season. This shall be a condition of any approval.

### Other Matters

The site would be accessed from a temporary track from the dead end off the existing roundabout on Mount Road to the north west. The track is shown to run along the line of an existing footpath (Hartshorne FP 4) for the length of two fields then would enter the field at an angle to the proposed site. An informative in relation to any obstruction to a footpath would alert the applicant to obligations in respect of the footpath.

In relation to some comments received, the site is within the countryside but is not green belt. There is no evidence this development would result in any adverse health impacts and accidents in relation to wind turbines are low. Any further application for a turbine would be assessed on its own merits and would be subject to the same level of scrutiny as this proposal. There is no evidence that Digital TV reception would be affected by the proposed turbine. Planning permission does not override legal issues in respect of ownership of land.

### Conclusion

Overall it is considered that the erection of a wind turbine in this location would not unacceptably harm the landscape character of the area and there is sufficient evidence to suggest that the occupiers of the nearest houses should not be adversely affected by noise from the operation of the turbine. A condition is recommended requiring the removal of the turbine and its supporting structure should is no longer be used for electricity generation.

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. Within 3 months of the cessation of the use of the turbine and its supporting infrastructure for the purpose of generating electricity as hereby permitted all such equipment and structures shall be dismantled and the site restored to its current use as pasture/grazing associated with Hilltop Farm.  
Reason: To restore the land in the interests of the rural character of the area should the turbine and supporting structures no longer be required for the purposes of power generation.
3. The wind turbine hereby permitted shall be sited in accordance with the dimensions shown on plan no's 630/KE336/003 and 630/KE336/006.  
Reason: For the avoidance of doubt.
4. Prior to commencement of development the recommendations in Section 4.2 of the Ecological Appraisal dated June 2012 shall be implemented and its recommendations in terms of maintenance of hedgerows implemented for the life of the development.  
Reason : To ensure the impact on wildlife and protected species is mitigated.
5. Within 1 month of the turbine being brought into use the applicant shall provide the Local Planning Authority with evidence that notification has been given to East Midlands Airport to that end.  
Reason: So that a record can be kept of all operational turbines to aid in the assessment of cumulative impact in the interest of air safety. The cumulative impact of wind turbine generation developments, which are in relatively close proximity, could compromise the safe control of aircraft in this area.

### **Informatives:**

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

## **2. PLANNING AND OTHER APPEALS**

(References beginning with a 9 are planning appeal and references beginning with an E are an enforcement appeal)

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2012/0120	Rosliston	Linton	Allowed	Delegated
9/2012/0131	Findern	Willington & Findern	Allowed	Delegated



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# Appeal Decision

Site visit made on 26 June 2012

**by J I McPherson JP BSc CEng CEnv CWEM MICE MCIWEM MCMI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 2 July 2012**

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**Appeal Ref: APP/F1040/D/12/2176190**

**26 Main Street, Rosliston, SWADLINCOTE, Derbyshire, DE12 8JW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Miss F Brown against the decision of South Derbyshire District Council.
  - The application Ref 9/2012/0120/FH was refused by notice dated 5 April 2012.
  - The proposed development is the creation of a new vehicular access.
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## Decision

1. The appeal is allowed and planning permission is granted for the creation of a new vehicular access at 26 Main Street, Rosliston, Swadlincote, Derbyshire, DE12 8JW in accordance with the terms of the application, Ref 9/2012/0120/FH, dated 13 February 2012, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision,
  - 2) The development hereby permitted is that shown on drawing number 212-06.01 dated 10 February 2012.
  - 3) Prior to the first vehicular use, the new access and two parking spaces shall be laid out and completed in accordance with drawing number 212-06.01. Both spaces shall measure at least 2.4m x 5.0m with 2m x 2m x 45° pedestrian intervisibility splays at the junction with the highway.
  - 4) No structure or erection exceeding 600m metres in height shall be placed within the intervisibility splays referred to in Condition 3 at any time.
  - 5) No gates shall be installed on the approved access within 5m of the edge of the highway and any that are installed shall open inwards away from the highway.

## Main Issue

2. The main issue in this appeal relates to highway safety.

## Reasons

3. The appeal proposal is for the formation of a dropped kerb and footway crossing to give access to two proposed car parking spaces within the site. These spaces would be in place of an existing building beside the semi-detached house and on the new driveway.

4. In refusing the application, the Council made no reference to any policies or standards for such an access. The officer's report simply noted that the Local Highway Authority found the scheme unacceptable for highway safety reasons.
5. Manual for Streets 1 (MfS1) gives detailed guidance on visibility at junctions, though it is less specific for single driveways. Nevertheless, it does say in the box on page 96 that very few accidents occur due to vehicles turning in or out of driveways, even on heavily trafficked roads. The later Manual for Streets 2 (MfS2) also comments, at paragraph 1.3.8, that direct frontage access is common in all urban areas, including where 40mph speed limits apply, without any evidence to suggest that this practice is unsafe.
6. The appeal site is within a 30mph area where speeds would generally be kept down by the limited width of the road and the on-street parking referred to by the Appellant. Despite the parking for the shops opposite, there were cars parked on the road at the time of the site visit.
7. Although vehicles could not turn round within the site, with a 2m set-back from the kerb line, there is ample visibility along Main Street to the right (east). With the slight bend in the road at this point, visibility to the left (west) is limited to about 19 or 20m along the kerb line by the beech hedge within the adjoining ownership. Nevertheless, at just a little less than a 2m set-back there is much improved visibility in this direction. Furthermore, there is no known accident record as a result of the use of any of the other similar accesses all along the road.
8. The scheme includes 45% 2m x 2m pedestrian visibility splays that would provide greater safety for pedestrians than at most of the nearby driveways.
9. Accordingly, there is no reason to consider the proposed scheme would unduly harm highway safety and the Appeal will be allowed, subject to certain conditions.
10. In addition to the usual time limit and the definition of the plans considered, the two parking spaces should be provided and surfaced to avoid mud being carried onto the highway. Also before use, and in order to avoid harm to highway safety, the 2m x 2m visibility splays should be provided and in future maintained. The Council's suggested condition that any gates should be set 5m back into the site would also prevent obstruction of the highway whilst any gates were opened and closed.
11. The Council also suggested a condition requiring the entire site frontage to be cleared of obstructions above 1m (or 600mm for vegetation) for a distance of 2m into the site. This would go considerably beyond any reasonable visibility requirements and will not therefore be required.

*J I McPherson*

INSPECTOR





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# Appeal Decision

Site visit made on 25 July 2012

**by Nigel Harrison BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 1 August 2012**

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**Appeal Ref: APP/F1040/D/12/2178359**  
**84 Burton Road, Findern, Derby, DE65 6BE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Alan Barker against the decision of South Derbyshire District Council.
  - The application Ref: 9/2012/0131/FH dated 10 February 2012, was refused by notice dated 29 March 2012.
  - The development proposed is construction of a detached double garage within the frontage of the existing property.
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## Decision

1. The appeal is allowed and planning permission is granted for the construction of a detached double garage within the frontage of the existing property at 84 Burton Road, Findern, Derby, DE65 6BE in accordance with the terms of the application Ref: 9/2012/0131/FH dated 10 February 2012, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development shall be carried out in accordance with the following approved plans: 2012-02-12-03 dated February 2012.
  - 3) The materials to be used in the construction of the external surfaces of the garage hereby permitted shall match those used in the existing dwelling.

## Main Issue

2. The one main issue in this case is the effect of the proposal on the character and appearance of the streetscene in Burton Road and surrounding area.

## Reasons

3. The site is outside the built up part of Findern village within a strip of ribbon development which protrudes into an otherwise predominantly rural area.
4. The Council has not relied on any development plan policies; saying none are relevant to the proposal. However, it has referred to paragraphs 58 and 64 of the National Planning Policy Framework (the Framework), published by the Government in March 2012.
5. It is proposed to erect a detached double garage between the front elevation of No 84 and Burton Road on part of a large hard-surfaced area currently used for

domestic parking. To the north-east of the site is a large pumping station set well back and at an angle to the road. To the rear of No 84 is a busy garden centre with buildings towards the rear of the site and a large car park in front. Its wide access immediately adjoins that of No 84. To the south-west of these access points is a run of four houses before a short break in the frontage development. Beyond this is a continuous run of more conventional frontage development with houses set back modest distances from the road.

6. Due to its position between the dwelling and highway, the Council says the proposed garage would be an incongruous and prominent feature in the streetscene, and thus detrimental to the character and appearance of the street scene and surrounding area.
7. Although I accept that the pattern of development further to the south-west along Burton Road is more regular, consistent and residential in character, the section including the appeal site has no regular building line or consistent pattern of development. Nor, in my view does it possess any strong prevailing character or especially local distinctiveness. In this context my overall judgement is that the proposal would respect the character and appearance of the streetscene and surrounding area. Although there are no other examples of garages or other buildings set forward of dwellings nearby, I consider this factor alone is insufficient to render the scheme unacceptable.
8. I find no conflict with paragraph 58 of the Framework, which requires development to respond to local character and identity; or with paragraph 64 which says permission should be refused for development of poor design that fails to take the opportunities available for improving an area's character and quality.
9. I have considered the conditions put forward by the Council in the light of advice in Circular 11/95. The suggested condition requiring matching materials is necessary in the interests of the appearance of the area. A condition is also needed to secure compliance with the submitted plans, for the avoidance of doubt and in the interests of proper planning.
10. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Nigel Harrison*

INSPECTOR