

SOUTH DERBYSHIRE DISTRICT COUNCIL

DEVELOPMENT CONTROL COMMITTEE – 14 January 2003

Planning Services Manager

I N D E X

PART 1 Planning Applications

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

PLANNING SERVICES MANAGER

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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 Planning Services Manager's 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 Planning Services Manager, 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

14/01/2003

Item 1.1**Reg. No.** 9 2002 0692 F**Applicant:**

Mr R J Hill
 The Old Chaple
 Batch Combe
 Wedmore
 Somerset
 BS28 4DU

Agent:

Mr R Smedley
 99 Marlborough Road
 Allenton
 Derby
 DE24 8DS

Proposal: The retention of a 3 meter high palisade fence and gates, on the eastern boundary the erection of a 3 meter high palisade fence on the remaining boundary at Land Adjoining H G V Depot Sutton Lane Hilton Derby

Ward: Hilton

Valid Date: 05/07/2002

Site Description

The site comprises an area of paddock that emerged from the diversion of side roads when the A50 was constructed. The site lies between the old and new lines of Sutton Lane. The land on the opposite side of the old road line is an SSSI.

Proposal

Originally, it was proposed that a palisade fence up to 3 metres high be erected around the whole of the plot. This attracted opposition and the application has been amended to reduce the proposal to the length of boundary adjoining the old line of Sutton Lane. The height of the fence has also been reduced to 2.4 metres high to match that on the adjacent plot.

Planning History

None relevant

Responses to Consultations

Hilton Parish Council has objected to the fence because the fencing would appear out of character with the area.

The comments of the County Highways Authority will be reported at Committee.

The Derbyshire Wildlife Trust that owns the adjacent SSSI has been consulted and considers that the proposal would not prejudice the designated area.

Responses to Publicity

One letter has been received from an adjacent landowner that comments that the proposal on adjacent land to the south has had a previous refusal and circumstances have not changed and there is concern that the erection of fencing may prejudice the entry and exit of his HGV's

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Environment Policy 1

Planning Considerations

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

- The impact of the fence on the character and appearance of the countryside.

Planning Assessment

The proposal has been considerably reduced since it was submitted. The length of fence is now limited to a single boundary. The fence would be partially screened by existing hedges. Planting that was put in as part of the road construction and is now becoming well established would enhance this.

The adjacent landowner has palisade fencing around the whole of his site and it would be difficult to argue that the erection of another length of fence on the old highway frontage would materially harm the character and appearance of the area.

For information, another application for 3.0 metre high palisade fencing on land immediately adjacent to the A50 has been withdrawn.

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. This permission shall relate to the amended plan received under cover of your letter dated 28 November 2002 received on 6 December 2002.
1. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
2. Within three months of its erection, the fence shall be painted dark green or such other dark neutral colour that may be agreed in writing by the Local Planning Authority.
2. Reason: To help to minimise the visual impact of the fence.

Item **1.2**

Reg. No. **9 2002 0977 U**

Applicant:

J Wall & Son
Netherclose Farm, Uttoxeter Road
Foston
Derby
DE65 5PX

Agent:

P. Diffey
Peter Diffey & Associates
Cotesbach Villa
54 Woods Lane
Stapenhill
Burton On Trent
DE15 9DB

Proposal: **The retention of a site for a transport depot and for the maintenance and servicing of lorries at Netherclose Farm Uttoxeter Road Foston Derby**

Ward: **North West**

Valid Date: **17/09/2002**

Site Description

The site comprises two areas of land served off the line of the old Uttoxeter Road at Foston. The first is at the junction of the old road with Watery Lane. The second is a recently established complex of barns and portacabins that is used as part of the haulage yard operated by the applicant.

Proposal

The first site has been used as a haulage yard for a number of years and has had an untidy appearance. The second site was established some years ago without the benefit of a separate planning permission. It is proposed to consolidate the operation under the auspices of a comprehensive planning permission that would establish the business on the site.

To this end the applicants have stated that they have invested monies in tidying up the first site and now wish to finalise the security of that site with the erection of security fencing where the existing boundaries are vulnerable. This land would be used for the storage of empty trailers and other materials associated with the haulage use.

The second site would be the main base for the operation of the business. A landscaped bund has been created to help to screen the existing buildings and there would also be other peripheral planting. The applicant's have agreed to the planting of an avenue of trees along the drive to the access onto the former Uttoxeter Road.

Applicants' supporting information

Netherclose Farm is part used agriculturally and part as a transport depot and maintenance building. The maintenance section of the building has been used for in excess of 10 years. Letters are attached to the application confirming that the building has been so used. The submitted information clearly identifies Netherclose Farm was used for the repair and maintenance of vehicles from at least 1989 and it was transferred into the new building later in 1990 or early in 1991 with the completion of building construction works. Please note that maintenance is carried out on vehicles not owned by J Wall and Sons. The company employs 6 staff 4 of who are drivers.

The more western section of the building has been in use for maintenance and servicing purposes for 11 years. This implies that the land immediately adjacent to the site, used as the access and associated parking area, has similarly been in use for up to that period. The adjacent area is used for the parking of vehicles and trailers associated with the servicing /maintenance works and the transport business. The parking area is screened from Uttoxeter Road by hedging and trees. Additional tree planting will strengthen this screening.

This application is designed to regularise the use and to allow the change of use subject to necessary conditions and screening. Details of the use, together with details of a staff mess room and a bunded diesel area, recently constructed, are shown on submitted plan.

During the last planting season mounding and tree planting was carried out in front of the building. Additional planting will be completed during the next planting season. The company has, so far, expended approximately £20,000 on site improvements, screening, security and planting.

Security is a continuing problem because of the site's isolated position. The application includes regularisation and retention of existing gates. These are designed to minimise the possibility of loss of vehicles and or trailers.

The original site has been in use as a transport depot by J Wall and Son for more than 40 years. It originally had direct access onto the A50 (now the Uttoxeter Road). The Highway Agency purchased part of the depot site when the A50 was constructed. The depot is now used for the storage of vehicle trailers and for the cleaning down of vehicles. This application is to regularise the use of the depot. The submitted plan shows the site, additional tree planting, hedging and hedge laying. This work will be carried out during the 2002/2003 planting season.

A letter has also been received confirming that a tree avenue would be planted along the access drive.

Planning History

These sites have been the subject of some untidy site notices over the past few years. On the second site there were a couple of applications for agricultural buildings that were permitted. It is one of these that the applicant's claim has been used for in excess of 10 years as a haulage maintenance depot.

The most recent application proposed that the whole operation be relocated on the new site. Committee resolved that it would grant permission subject to a Section 106 Agreement to restore the original site to a state that would fit in with the countryside. The Agreement was never concluded and the applicant withdrew the application. The current application was submitted following further preparation of the case as outlined above.

Responses to Consultations

Foston and Scropton Parish Council comments that the original site would benefit from being tidied up but is concerned that there should be a condition imposed to ensure that the site remains well maintained. On the second site there is concern that the buildings have not been used for their intended purpose. The Parish Council requested advice on this matter and the response is reported in **Planning Assessment** below.

The County Highways Authority has no objection subject to an improvement to the entrance radii.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Economy Policy 4

Local Plan: Employment Policy 1, Environment Policy 1.

Planning Considerations

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

- The Development Plan
- The impact on the countryside

Planning Assessment

The company is a long established business serving the needs of the local agricultural community. The original site is clearly an established site with immunity from planning control. The site has been tidied to a large extent and the landscaping planted as part of the construction of the A50 has meant the site is becoming less exposed to the wider countryside than was the case previously. The tidying of the site has meant the previous Untidy Site Notice provisions have been met.

The second site is visible from the wider area, particularly the A511 to the north east. Again the planting that has been undertaken would help to reduce the impact together with the avenue of trees that have now been proposed. The assertion that the building has been operating as a maintenance base for the haulage operation means that enforcement against the use would not be an option if the Committee was minded to refuse planning permission.

In the light of the above it would seem to be appropriate to take the opportunity offered by this application to impose conditions that would help to minimise the impact of the development. In particular the planting of the avenue of trees and the restriction of the parking of lorries on the new site to an area of the site that would minimise their impact.

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. Within two months of the date of this permission, the western side of the access to Netherclose Farm shall be provided with a 10.7 metre radius at its junction with Uttoxeter Road.
1. Reason: In the interests of highway safety.
2. Prior to 31 March 2003, the avenue of trees as described in your letter dated 12 November 2002 and those landscaping proposals shown on drawings C236/2 Revision A and C236/1/1 Revision B shall be implemented.
2. Reason: In the interests of the appearance of the area.
3. 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.
3. Reason: In the interests of the appearance of the area.
4. The parking of lorries on the Netherclose Farm site shall be limited to the area edged red on the submitted drawing C236/1/1 Revision B unless the Local Planning Authority has granted permission for any variation in response to an application made in that regard.
4. Reason: In the interests of the appearance of the area.

Informatives:

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 xt 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

14/01/2003

Item 1.3**Reg. No.** 9 2002 1060 F**Applicant:**

Tamworth Co-Operative Society
 5 Colehill
 Tamworth
 Staffs

Agent:

Tim Hayward
 Haden Ritchie Partnership
 The Manor House
 Lichfield Street
 Tamworth
 Staffordshire
 B79 7QF

Proposal: The erection of two house on the site of the former petrol filling station and car sales area at Greenfield Store Service Station Main Street Rosliston Swadlincote

Ward: Walton

Valid Date: 04/10/2002

Site Description

The application site is the site of a former garage and is currently used as informal parking for

the adjoining village shop. The rear of the site adjoins the official parking area for the shop with open countryside beyond. Dwellings are located to the other side and opposite the site.

Proposal

The proposal is to construct two detached four-bedroom dwellings on the site with integral single garages and additional parking to the front of the dwellings.

Responses to Consultations

Severn Trent Water has no objection.

The County Highway Authority has no objections in principle to some development on the site, however raise concerns that since the land is currently used for car parking, its loss would result in displacement of vehicles onto the classified road to the detriment of highway safety. The existing parking area at the rear of the adjacent premises is not particularly convenient for customers and it is recommended that the proposed development should incorporate some retained parking space. A letter was submitted to the applicant requesting additional parking however no alterations to the scheme have been made. County Highways have made the following additional comments:-

Parking space has been available within the site of the former filling station on either a formal or informal basis for some years. The parking facilities at the rear of the existing premises are

not well used and the loss of the space within the site will displace vehicles onto the classified road, to the potential detriment of highway safety.

The Parish Council raises concern over the lack of safe parking for the adjoining shop. It states that this area of land has doubled up as parking for the shop for a considerable length of time, even when the petrol station was in operation. Since the petrol station has closed this parking area has been very well utilised and the normal parking problems found in Main Street have been almost eliminated. Recent experience shows that the proposed parking to the side and rear of the store will not be used, during the recent decontamination exercise when the area was cordoned off people using the shop parked dangerously in Main Street.

Other concerns raised by the Parish Council are:-

- The direct inconvenience this will create for local residents who constantly face cars being parked in front of their property access.
- The fact that most delivery vehicles actually offload from Main Street due to the inconvenience of reversing to the rear of the store. It is almost impossible for 40 foot articulated vehicles to use the side access.
- With normal shop staff levels this takes up three parking spaces during store opening times,
- We have a Primary School, the Co-op store, Village Hall and Doctors Surgery all within approx 200 metres of each other in Main Street. At 08.45 and 15.30 on weekdays the entire 200 metre stretch is completely congested. This creates dangerous manoeuvres and parking on pavements.

Comments in relation to creation of additional off road parking facilities:-

- Could the proposed properties be reduced in size or become semi-detached to create more space adjacent to the store?
- Could the current store frontage be used to create additional parking? The store front entrance could be relocated to avoid this becoming hazardous.
- Could the development be reduced to a single property?

Applicants Submission

We are surprised by the comments of the County Highways Authority as there has always been a car park to the rear of the stores. This car park has been maintained in the proposals and a single storey projection has been removed from the store to improve access and we have resisted increasing the garden area of plot 1 to include the car park area on that side to the rear. We are of the opinion that the proposals are not different to when the store and the garage were fully operational in the past.

Responses to Publicity

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

- a. The store and filling station have always had the same owners and there has always been shared parking. The proposal will therefore result in the loss of informal off road parking which will create parking problems for customers and nearby residents.
- b. Problems already exist with deliveries which are made to the front of the store, some delivery lorries park blocking the access way to the rear car park. The rear doesn't have adequate space for staff parking, customer parking and deliveries.

- c. Highway safety problems due to the proximity of the site to the Primary School.

Structure/Local Plan Policies

The relevant policies are:

Draft Local Plan: Policy H1

Planning Considerations

The main issues for consideration are the suitability of the site for residential development and the design, appearance, access and siting of the proposed dwellings.

Planning Assessment

The site is a brownfield site located within the village of Rosliston, which is a serviced village, and where there is a presumption in favour of residential development in accordance with the provisions of Policy H1 of the Draft Local Plan.

Most dwellings along this section of Main Street are relatively modern set back from the road frontage. The proposed dwellings are considered acceptable in terms of their siting, design and external appearance. The scheme complies with the Supplementary Planning Guidance on Housing Design and Layout and the proposed siting will not adversely affect the occupiers of any neighbouring dwellings.

The site was formerly a petrol filling station and is in the same ownership as the adjoining village shop. Although the site has been used informally for parking for the shop for a considerable period of time, this has never been a formal arrangement and the site could be fenced off at any time. The application indicates the retention of a rear car park and service area for the shop. The Applicant has provided a plan indicating a layout that can accommodate 10 parking spaces and they have also stated that signage will be provided to inform customers of the availability of the rear parking area. The shop is a village facility for the purchasing of convenience goods and it would not be sustainable to provide a large parking area to service the shop, this would encourage more short journeys by private car.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. 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.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms three cars, in any other case two cars within the curtilage of each dwelling, or in any alternative

location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces (in the case of dwellings with four or more bedrooms) or two parking spaces (in any other case), measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

3. Reason: To ensure that adequate parking/garaging provision is available.
4. The car parking spaces/manoeuvring areas shown on the submitted plan number 5313/01A shall be hard surfaced with a solid bound material and marked out prior to the commencement of the development and thereafter retained for that purpose free of obstruction.
4. Reason: In the interests of highway safety.
5. Prior to the commencement of development, details of the proposed signage to indicate the rear car park shall be submitted to and approved in writing by the Local Planning Authority and the agreed signage shall be erected in accordance with the approved details.
5. Reason: To ensure that customers are aware of off road parking in the interests of highway safety.

Informatives:

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

14/01/2003

Item 1.4**Reg. No.** 9 2002 1105 F**Applicant:**

Mr A Gadsby
38 Pinfold Close
Repton
Derby

Agent:

B. Williamson
Gilson Design Consultants Ltd
Genista
Broomhills Lane
Repton
Derbyshire

Proposal: The erection of semi-detached houses at Land To The South-East Of 53 High Street Woodville Swadlincote

Ward: Woodville

Valid Date: 17/10/2002

Site Description

This infill site is on the north east side of High Street adjacent to Fairfield Terrace and opposite the former Kiln Service Station.

Proposal

It is proposed to erect a pair of two storey, two bedroom semi-detached dwellings, which would be set 2.4m back from the highway edge. Four parking spaces would be provided at the rear of the site and a 1m high brick wall would define the front boundary and a 1.8m high close boarded fence for the rear boundary.

Planning History

Planning permission for a single dwelling on the site was granted in November 2000.

Responses to Consultations

The Highway Authority has no objections subject to standard highway safety conditions.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: Housing Policy 4 and 11.

Supplementary Planning Guidance (SPG) Housing Layout and Design.

Planning Considerations

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

- Compliance with Supplementary Planning Guidance (SPG).

Planning Assessment

The development plan identifies the site as being within the urban area and therefore its residential development is acceptable in principle.

The rear garden lengths are 5m and 8m which falls short of the suggested 10.5m in the SPG and the areas are 40 square metres rather than the suggested 50 square metres. The site, however, enjoys a relatively open aspect at the rear to neighbouring gardens and a higher density of development is appropriate in this location to enhance the appearance of the streetscene.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. This permission shall relate to the amended drawing, no 5989B received on 20 November 2002 showing resiting of the dwellings closer to the highway, increased roof pitch of the front facing gable, brick support to the front porch, 1m high front boundary wall and 1.8m high side and rear boundary fence.
2. Reason: To reflect the establish character of the streetscene and to safeguard the amenities of the area.
3. No development shall commence on site until details of the design of the front boundary wall have been submitted to and approved in writing by the Local Planning Authority and the approved wall and fencing to the rear shall be erected before the development is brought into use.
3. Reason: In the interests of safeguarding the amenities of the area.
4. No development shall commence on site until samples of all external materials have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed using the agreed materials.
4. Reason: To ensure the materials are appropriate for locality.
5. The entire site frontage shall be maintained in perpetuity free of any obstruction exceeding 1m in height relative to the nearside carriageway edge for a distance of 2m back from the highway boundary in order to maximise visibility for drivers emerging onto the public highway.
5. Reason: In the interests of highway safety.

6. Prior to the occupation of the dwellings the approved parking areas shall be laid out and retained thereafter free of any impediment to its designated use.
6. Reason: In the interests of highway safety.
7. The dwellings shall have brick eaves and verges.
7. Reason: To safeguard the established character of the area.
8. 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).
8. Reason: To protect the amenities of adjoining properties and the locality generally.

Informatives:

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

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

14/01/2003

Item 1.5**Reg. No.** 9 2002 1121 D**Applicant:**

Mr M Stanton
 Knowle Hill Farm
 Ticknall
 Derbyshire
 DE731JQ

Agent:

Darryn Buttrill
 Bi Design Architecture
 First Floor Studio
 79 High Street
 Repton
 Derbyshire
 DE656GF

Proposal: The submission of reserved matters under condition 2 of permission 9/2001/1059 for the erection of a bungalow at Land between 15 and 19 Cauldwell Road Linton Swadlincote

Ward: Linton

Valid Date: 22/10/2002

Site Description

Site currently forms part of the side garden area of the adjoining dwelling and is an infill plot

between two dwellings. The site fronts onto the road and bounds the rear gardens of dwellings to the rear.

Proposal

The application is a reserved matters submission for the construction of a detached bungalow, outline permission was granted in December 2001. The scheme proposes no windows in the side elevations of the bungalow adjoining the neighbouring dwellings. The proposed rear garden length is only 6.5m at its maximum but measures 60 square metres in area. The dwellings to the rear of the site have rear gardens measuring 20 metres in length.

Planning History

Outline consent was granted for the erection of a bungalow in December 2001.

Responses to Consultations

The Parish Council actively support the planning application although wish the views of neighbours to be taken into consideration. It sees one big advantage of this will be that it will stop people from parking on the bend outside of the pub.

The County Highway Authority has no objections subject to conditions.

Responses to Publicity

None.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: Housing Policy 11.

Supplementary Planning Guidance - Housing Design and Layout.

Planning Considerations

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

- Assessment of layout against standards and impact on amenity of occupiers of existing and proposed dwellings.

Planning Assessment

The proposed bungalow is considered acceptable in terms of its design and external appearance. The siting of the bungalow in the position shown will not result in a loss of amenity to the occupiers of either of the dwellings adjoining the site.

The proposed bungalow has a rear garden length of between 2.7 metres and 6.5 metres rather than 10.5 metres, which the standard laid out in the Supplementary Planning Guidance, requires. The dwellings to the rear of the site have long rear gardens and the siting of the bungalow in the location proposed is considered acceptable and will not have an adverse impact on the occupiers of any adjoining dwellings or the occupiers of the proposed dwelling. Distances required between windows are complied with.

Recommendation

GRANT permission subject to the following conditions:

1. 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.
1. Reason: To safeguard the appearance of the existing building and the locality generally.
2. There shall be no gates within 5 metres of the highway boundary.
2. Reason: In the interests of highway safety.

Informatives:

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

That the conditions applied to the outline planning consent remain active and should be fully complied with.

Please contact the Area Manager Sout East (01629 580000, ext 7595) giving at least six weeks notice prior to commencing any works within the existing highway.

14/01/2003

Item 1.6**Reg. No.** 9 2002 1123 R**Applicant:**

Lesley Deegan
 The Covert, Aston Lane
 Chellaston
 Derby
 DE731TT

Agent:

Lesley Deegan
 The Covert, Aston Lane
 Chellaston
 Derby
 DE731TT

Proposal: The variation of condition 1 of planning permission 9/2001/0254 to permit the use from 9am to 9pm everyday both inside and outside the unit for dog training at The Covert Aston Lane Chellaston Derby

Ward: Aston

Valid Date: 22/10/2002

Site Description

The site is a smallholding in the countryside at the edge of Derby. The nearest property is Broad Eaves on the opposite side of the road about 120m away. There are also a number of new dwellings nearby (135m at the closest) at the junction of Aston Lane with Snelsmoor Lane. The subject site is focussed on a former agricultural building set back from the road by some 80 metres. There is a car park directly off Aston Lane, which was formed at a time when the smallholding operated as a farm park. The land is within the green belt.

Proposal

The applicant seeks to extend the hours of operation of the existing permitted use (10.30 a.m. to 12.30 p.m. and 7.30 p.m. to 9.30 p.m. Mondays to Fridays).

Applicant's Supporting Information

- a) Current hours of operation are causing loss of income to the business.
- b) There have been requests from several organisations to use the indoor facility at weekends.
- c) The applicant has diversified from the farming industry and seems to be penalised because of this.
- d) There were many more visitors to the site on Sundays when it was an open farm.
- e) The applicant's daughter is unable to training for dog shows at weekends, whereas she could if she were in a domestic garden.
- f) Organisations sometimes ask for special training at short notice and this may necessitate training outside existing hours.

- g) There is a similar operation in Markfield, Leicestershire where there are houses within 50 metres.
- h) A client was stopped and asked questions about the use by an unidentified man.

Site History

Permission was granted for the use to operate on a temporary basis in 1999. The permission was also subject to a limit on the hours of usage. That restriction was not acceptable to the applicant and an appeal was lodged, requesting the current hours of operation. The Inspector accepted the applicant's stance and allowed the appeal subject to a temporary period to enable the impact of the use to be assessed. Permission was granted to continue the use on a permanent basis in 2000 (9/2001/0254/R).

Responses to Consultations

The Parish Council and the County Highway Authority have no objection.

The Environmental Health Manager states that given that his department has received no complaints since the original granting of permission, he has no objection subject to a condition permitting the proposal on a 12-month temporary basis.

Responses to Publicity

The nearest neighbour objects for the following reasons:

- a) The only peace and quite is on Saturdays and Sundays.
- b) Current time limits are not being adhered to.
- c) Current noise problems would be exacerbated. If the noise becomes intolerable the environmental health officer will be contacted.
- d) Visitors use the old access to the site instead of the proper car park and access.

A petition of 38 signatories has been received stating that the facility is rare and needed.

A resident at the corner of Aston Lane/Snelsmoor Lane states that there has never been any cause to complain.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 7.
Local Plan: Green Belt Policy 2 and 6.

Planning Considerations

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

- The principle.
- Residential amenity.
- Impact on the character of the countryside and the green belt

Planning Assessment

The proposal is a farm diversification project making use of an existing building and would run alongside the residual agricultural activity at the site. As such the proposal does not prejudice green belt policy.

The barking of dogs could cause disturbance to neighbours although there is insufficient evidence to determine whether this could reach unacceptable levels at this stage. As such the Environmental Health Manager's recommendations would enable the impact to be assessed and controlled in an appropriate manner.

The proposal would have little impact on the countryside and the openness of the green belt compared with the existing and previous uses of the site.

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. This permission shall be for a limited period only, expiring on 31 January 2004 on or before which date the use shall be discontinued and the usage of the site shall revert to the provisions of planning permission 9/2001/0254/R unless, prior to that date, an application has been made and permission has been granted for an extended period.
1. Reason: To enable the Local Planning Authority to assess the impact of the extended hours of operation
2. The use hereby permissiyyted shalll not be carried on outside the following times:
9:00 am to 9 pm.
2. Reason: In the interests of the living conditions of the occupants of nearby dwellings.

14/01/2003

Item 1.7**Reg. No.** 9 2002 1143 R**Applicant:**Mr Mrs F J Oxspring
C/O John Church**Agent:**John Church Planning & Consultancy
Company
Victoria Buildings
117 High Street, Clay Cross
Chesterfield
Derbyshire
S45 9DZ**Proposal:** The variation of condition 1 of planning permission
9/1999/0819/U at Bleakmoor Retreat Jawbone Lane
Melbourne Derby**Ward:** Melbourne**Valid Date:** 28/10/2002**Site Description**

The site is used as a leisure plot and is situated at the edge of the built up part of Melbourne in a countryside setting.

Proposal

The proposal seeks to vary a condition that limits occupation of the site specifically to the applicants.

Applicants' supporting information

- a) The applicants wish to leave the land to their children and the condition precludes them from so doing.
- b) Modification of the condition would not prejudice the Council's interests.
- c) The condition effectively prevents the applicants' children from looking after the land when the applicants are away.
- d) The future use of the land by the applicants' children would be no different to the way the land is currently managed.
- e) The appeal inspector indicated that the present use of the land causes no significant harm to the character or appearance of the area.

Site History

Permission to use the land for its current purpose was refused in 2000 (9/1999/0819/U). The subsequent appeal was allowed but the Inspector imposed conditions to safeguard the character

and appearance of the countryside. Condition 1 is the subject of this application. Conditions 2 – 4 related to the scheme of management of the land, removal of permitted development rights and no open storage.

Responses to Consultations

The Parish Council strongly objects and feels that the condition should not be transferred now or at any time.

Melbourne Civic Society objects for the following reasons:

- a) The condition was made personal to enable the applicant to continue enjoy the previously unauthorised use and to enable the land to revert to its previous use when their occupation ceased,
- b) The proposal would effectively extend the use in perpetuity contrary to the Inspector's intention.
- c) The applicant's children can maintain the land at present as agents.

Structure/Local Plan Policies

The relevant policies are:

Derby and Derbyshire Joint Structure Plan: General Development Strategy Policy 4.
South Derbyshire Local Plan: Environment Policy 1.

Planning Considerations

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

- The principle.
- Impact on the character and appearance of the area.

Planning Assessment

Whilst the use is not necessary to a location in the countryside the Inspector's decision legitimises the principle of the use of the land for its current purpose.

The main issue identified by the Inspector was the effect on the character and appearance of the countryside. The subject condition was one of a menu of conditions designed to safeguard this issue. He was satisfied with the impact of the use at the time he observed it. The applicant has stated that future occupation by the applicants' children would follow the same management regime. As such the impact of the continuing use would be neutral.

Recommendation

GRANT subject to the following conditions:

1. When the premises cease to be occupied by Mr & Mrs F J Oxspring, or their children, the use hereby permitted shall cease and all materials and equipment brought onto the premises in connection with the use shall be removed.
1. Reason: To protect the character and appearance of the area

2. Unless as may otherwise be approved in writing the Local Planning Authority the site shall be used and managed in accordance with the scheme approved on 4 September 2000 under code no 9/1999/0819/U.
2. Reason: To protect the character and appearance of area.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order), no gates, walls or fences shall be erected on the site without the prior written approval of the Local Planning Authority.
3. Reason: To ensure that any such structures are appropriate to the character and appearance of the area.
4. There shall be no storage of goods, materials or chattels in the open.
4. Reason: To protect the character and appearance of the area.

14/01/2003

Item 1.8**Reg. No.** 9 2002 1153 FT**Applicant:**

Hutchison 3G UK Limited
 Manchester Business Park
 Building 1500, Aviator Way
 Manchester
 M22 5TG

Agent:

Stappard Howes
 Unit B1, The Viscount Centre
 University Of Warwick Science Par
 Milburn Hill Road
 Coventry
 CV4 7HS

Proposal: The erection of a twenty-two meter high cypress tree mast together with one equipment cabinet and three microwave dishes at a high of 19.35 meters at Land Off Greenside Court Mickleover Derby

Ward: Etwall

Valid Date: 30/10/2002

Site Description

The site comprises part of a field in the open countryside. Whilst not having a common boundary with any hedges, there are hedges in close proximity to the site. Within the hedges, there are trees, the closest of which are two oaks that the applicants state are some 15 metres high. Public footpath No 8 is in close proximity to the site to the south. The nearest dwelling would be approximately 230 metres to the east.

Proposal

The mast would appear in the form of a 'cypress tree' some 22 metres high set within a compound. This would have within it a cabinet housing the necessary equipment. Access to construct the site would be via a track constructed off the end of Greenside Close, a road within the Derby City boundary.

Applicants' supporting information

A full statement of need accompanies the application and this is available for inspection on the file. The site has been selected on the basis of site search criteria that are explained in the statement. The site is away from housing and well situated to serve the needs of the community. The applicants are satisfied that this is an appropriate location suited to the needs of the telecommunications industry.

The statement also outlines the consultation process the company undertook with the community in Mickleover that has resulted in the submission of the current proposal. The company points

out that the mast now proposed is much further away from the dwellings but that it needs to be higher than the Swayfield Close proposal because of the lie of the land. (22 metres high as opposed to 15 metres high). It also took account of alternative locations and structures in the locality with a view to sharing existing mast or alternative high structures. Other mast locations did not offer the level of coverage required and the tall buildings in Mickleover were either in a poor location in terms of coverage or had a policy of not allowing masts on their buildings.

Details have been provided to show that the radiation emitted by the mast is many thousands of times lower than the recommendations for public exposure to radiation recommended by the International Commission for Non-Ionising Radio Protection. (ICNIRP).

In response to the objections raised below the applicants have commented as follows on the technical objections: -

a) The Stewart Report concluded as follows in respect of emissions *"We conclude that the balance of evidence indicates that there is no general risk to the health of people living near to base stations on the basis that exposures are expected to be small fractions of the guidelines"* The ICNIRP guidelines were published in 1999 and has been reviewed annually by the commission. No evidence has warranted a change to the recommendations. The ongoing status of the ICNIRP deliberations can be seen on their Web site. To the best of our knowledge, the study referred to was not performed with cooperation of Warwick University. Also, the study has absolutely no relevance to third generation technology being that it operates at different frequencies than GSM/Tetra, it has a different modulation technique and quite different ICNIRP exposure limitation.

b) The "wash" referred to in this statement is a physical attribute known as resonance. Microwave ovens could not work without it nor could manufacturers build high gain antennas. This statement is disputed whole-heartedly.

Planning History

There is no planning history for this site but there was an application at Swayfield Close was refused earlier this year because of the impact that it would have had on the character and appearance of the area.

Responses to Consultations

Burnaston Parish Council has objected to the development on the grounds that:

- a) The mast is disguised as a 72 foot high Christmas tree, the mast would be completely out of character with the area and would spoil the rural outlook over a wide area. Councillors have seen these trees and consider that they do not blend in. It would probably be better if the mast was a metal frame as this would be better than the tree.
- b) Phone companies should share masts and reduce the impact on the Parish.
- c) The health and safety implications are also questioned, the height of the mast would broadcast 'nasty beams' over a wider area. The health implications remain a contentious issue and the Parish Council considers that the mast should be refused in the interests of the health and safety of parishioners.

Derby City Council has no objection to the proposal although there is concern that the tree may appear even more incongruous than a conventional mast.

Responses to Publicity

A total of 6 letters from 4 households have been received objecting to the development on the following grounds:

- a) The Stewart report does not give the all clear for the construction of more masts. Since the ICNIRP guidelines were published in 1999, there has been a lot of research done. Studies in America have revealed that such appliances do increase the risk of cancer. A study from Warwick university in 2002 suggests that a particular level of exposure is safe but the submitted documents suggest that exposure above that limit would be experienced
- b) Not enough is known about the attenuation of such beams. The explanation given in the letter compares the effect to the wash from two ships creating extra large waves. The same can happen with radio waves. The health of local residents should not be gambled with.
- c) Once permission is given, the area will become a mass of such masts because the Council will be seen as supportive of such proposals. There is no justification for putting another mast in such close proximity to one another.
- d) It would be folly to permit a mast in such close proximity to a widely used footpath and the new cycleway to the north that is becoming increasingly well known. This is a new national resource to enable people to enjoy unspoilt countryside. The 'tree' will stick out above those surrounding it and the compound would be very apparent from the footpath.
- e) It is unreasonable for one Authority to breach the green belt policy of another and this will only increase the pressure for other types of development in the area that should be resisted at all costs.
- f) These masts are only intended to serve a minority of the community who wish to sent photos to their phones. There is no wider benefit to industry.
- g) There are now a variety of methods of disguising masts and all of these should be investigated before this mast is permitted – the company does not appear to have tried very hard with the possible alternatives. Mast sharing should also be investigated. If these options are not acceptable to the company, then it should be made to look at other alternatives in the immediate locality that would take the mast away from the footpath. These include Beenhole plantation, a location between the previous site and this one, both of which are at the same elevation as the proposed site.
- h) The mast will be degraded by the effects of weathering and over time and will become an eyesore. Even in pristine condition, it would be an eyesore towering above other vegetation in the area.. We should be able to view a mast in situ so that a full judgement can be made in the light of experience.
- i) The adverts for the application were not very apparent, the weather has not helped. The new site reduces the opportunity for the community to respond in a coordinated manner and it is judged that there will not be a significant response to this application from the local community.
- j) There would be a loss of outlook and devaluation in property in the area.

Structure/Local Plan Policies

The relevant policies are:

Planning Policy Guidance Note 8

Code of Best Practice on Mobile Phone Network Development - November 2002 - ODPM

Local Plan: Community Facilities Policy 4

Planning Considerations

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

- The impact on the local environment
- Government advice and best practice
- Health issues

Planning Assessment

The proposal has arisen from an extensive consultation with a substantial number of residents in Mickleover that were opposed to the development of a mast in the vicinity of Swayfield Close. The application was refused (9/2002/0445 refers). The mast now proposed is considerably further from dwellings in Mickleover (230 metres). The visual impact of the mast is to be minimised using a 'cypress tree'. This method has been used in other parts of the country with some satisfaction being expressed with this type of solution. The mast would be set in close proximity to hedges and trees and it is accepted that this represents the best practicable means of reducing the visual impact of the proposal in this instance. This would be in accord with the provisions of Community Facilities Policy 4.

With regard to the health issue, an appeal case involving three masts in an Area of Outstanding Natural Beauty in Gloucestershire resulted in the appeal being dismissed. The Inspector was satisfied that the perceived health implications were a material planning consideration but the risks expressed were selective and that greater weight should be attached to the professional views of national and international bodies. This was based on a more powerful form of mobile communication than is proposed in this case. In particular the Inspector was concerned that there should not be confusion between emissions from handsets and base stations. The Inspector also awarded full costs against the Council. A copy of the decisions can be seen on the case file.

The Inspectors methodology and conclusions in that case has recently been confirmed in the High Court. The judge found that the Inspector had carried out his duties 'impeccably'. This decision confirms the advice from Government as set out in Planning Policy Guidance Note 8 and the current Best Practice manual referred to above.

The impact on users of the footpath would not form a sound reason for refusing planning permission. The users of the footpath are essentially transient and would not be exposed to radiation at anything approaching levels that the ICNIRP would deem to be harmful. There was a footpath in the appeal case referred to above. The Inspector found that the exposure levels for users would be higher but even so this was 0.1% of the exposure accepted by the ICNIRP. Given his reliance on the profession bodies opinion rather than sporadic other research, the Inspector did not find that there would be unacceptable risks to users of the footpath.

Government advice remains that compliance with ICNIRP public exposure guidelines is sufficient to protect the public from radiation. The proposed mast more than complies with this standard being many times lower than the safe exposure level as expressed in current documentation. A signed certificate to this effect is attached to the application.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. 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.
2. Reason: In the interests of the appearance of the area.
3. 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.
3. Reason: In the interests of the appearance of the area.
4. Notwithstanding the submitted details, a sample of the material to be used for the 'tree' shall be submitted to and approved in writing by the Local Planning Authority prior to the erection of the mast hereby permitted.
4. Reason: In the interests of the appearance of the area.

14/01/2003

Item 1.9**Reg. No.** 9 2002 1174 F**Applicant:**

J Bladen
27, High Street
Repton
Derby
DE656GD

Agent:

J Bladen
27, High Street
Repton
Derby
DE656GD

Proposal: The erection of a two metre high close boarded fence at 27 High Street Repton Derby

Ward: Repton

Valid Date: 05/11/2002

Site Description

This grade II listed building is on the northeast side of High Street some 25m from Askew Grove and within the Conservation Area.

Proposal

It is proposed to erect a replacement rear boundary fence, which would be 2m high and be of close-boarded construction supported by concrete posts.

Responses to consultations

The Parish Council has no objection.

Planning Considerations

The main issue central to the determination of this application is the impact of the fence on the setting of the listed building and surrounding area.

Planning Assessment

The fence in this rear garden location would not be visible from public land and would not detract from the setting of the listed building. The removal of mature leylandii trees from the boundary would also be visually beneficial.

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

Recommendation

GRANT permission subject to the following conditions:

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

