

Item 1.1

Reg. No. 9/2007/0055/O

Applicant:

J A Ball New Homes Ltd
Unit 2 Property Court Telford Way
Stephenson Industrial Estate
Coalville
Leicestershire
LE67 3HE

Agent:

David Granger Architectural Design Ltd
The Old Dairy Mill Street
Packington
Ashby De La Zouch
Leicestershire
LE65 1WN

Proposal: **Outline application (all matters reserved except for means of access and siting) for demolition of an outbuilding and the erection of two dwellings and the formation of a new vehicular access off Sycamore Avenue and the erection of a new garage to serve The Hall Lower Green Findern Derby**

Ward: **Willington/Findern**

Valid Date: **12/01/2007**

Reason for committee determination

The application is brought to the Committee for determination at the request of Councillor Mrs Hood and Councillor Ford who consider that considerable local concern has been expressed about a particular issue.

Site Description

The site is the garden to the Old Hall, a substantial Victorian house. The site is basically flat and the trees on the site are subject to a County Council Tree Preservation Order. The Old Hall lies in the northeast corner of the plot. There is an outbuilding adjacent to the paddock on the north boundary, which would be demolished if permission were granted. On the other side of the southern boundary is a public footpath. All Saints Church adjoins the site to the southwest, which together with the church boundary wall, is a listed building.

Proposal

The proposal involves two main elements:

- The formation of an access to the site from Sycamore Avenue
- The siting of two dwellings in the grounds of the Old Hall.

Several elements of the final design are reserved for subsequent approval - design, materials of construction and means of enclosure. Other elements would require approval but would be the subject of separate conditions should permission be granted. Accordingly, the only issues for determination now are the principle of the development, the siting of the dwellings and the means of access to the site. The application also proposes that the drive from Lower Green is retained as a pedestrian access to the site.

Applicants' supporting information

A Design and Access Statement, a full copy of which is available for inspection on the file, concludes that the proposed site is located in Findern village where, in principle, residential development is acceptable. The existing buildings make no contribution to the character and appearance of the area. The development would make a positive contribution to the area. The development is in accordance with the Development Plan to reuse previously developed land at an appropriate density. The development has been designed with the principles of Secure by Design in mind to minimise the potential for crime.

Planning History

The Committee refused an application for the erection of 3 dwellings on the site last year on the basis that it represented an overdevelopment of the site.

Responses to Consultations

Findern Parish Council has no objection to the development subject to a consideration of the impact on the protected trees being undertaken.

The County Highway Authority has no objection subject to the access to Sycamore Avenue being formed first in accordance with the application drawings and the dwellings not being occupied until the relevant parking space has been provided along with the manoeuvring areas.

The County Archaeologist notes the history associated with the Church and that by 1781 the boundaries of the churchyard had been established. However, the map of that date indicates that the church was in a different position within the yard and that the 1862 rebuilding of the church moved it to a more central location in the churchyard. Accordingly there may be below ground remains of the previous church. The proximity of the development site to the church gives cause for some archaeological concerns and it is recommended that an investigation of the site be undertaken prior to any development taking place (by condition).

Severn Trent Water has no objection subject to the submission of details of foul and surface water drainage details.

The County Council tree officer has raised no objection to refused scheme subject to stringent conditions to protect the trees within the site.

The Council's Design and Conservation Officer has no objection to this scheme.

The Environmental Protection Manager has no objection and states that the responsibility for ensuring that the site is fit for purpose rests with the developer.

Responses to Publicity

5 letters have been received objecting to the development for the following reasons:

- a) The new access would cause noise and light intrusion to the adjacent dwelling as vehicles exit the site. It is ludicrous for more cars to enter and leave Sycamore Avenue, there are no pavements on Common Piece lane and that lane is used daily by horse riders, walkers, farm traffic and people accessing the boarding kennels. The access to the dwellings should be from the existing access to The Hall that has served it for a number of years without problem and is perfectly adequate.
- b) The restrictions that were proposed for the last application should be imposed on this development if it is permitted.
- c) The new dwellings would overlook existing houses on The Green and devalue these dwellings. The dwellings would spoil the heritage of Findern
- d) The new buildings may cause damage to the trees on the site that are subject to a Tree Preservation Order.

Development Plan Policies

The relevant policies are:

RSS8: Policies 2 and 3.

Joint Structure Plan: General Development Strategy Policy 1 & 2, Housing Policy 5.

Environment Policy 10, 12 & 16

Local Plan: Housing Policy 5, Environment Policy 9, 13, & 14.

Planning Considerations

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

- The principle of residential development
- The safety of the access
- Siting and impact on neighbours
- The impact on the protected trees
- Archaeology and the historic context of the development

Planning Assessment

The Development Plan makes provision for the erection of dwellings in locations where there are a full range of services available. Findern is such a location and the principle of residential development is acceptable. The question then is to consider whether there are grounds for refusing the application for other reasons such as those suggested by the objectors in the light of responses from consultees.

One of the major concerns raised is the access to the site proposed from Sycamore Avenue and the knock on effects on the local highway network. The County Highway

Authority has raised no objection to the creation of additional dwellings on the site or to the formation of an access to Sycamore Avenue. The proposed access accords with the County Highway Authority standards and the access would function satisfactorily. Neighbouring residents consider that the additional traffic would adversely affect highway safety on Lower Green, Commonpiece Lane and on the Green itself. However, this is not the opinion of the County Highway Authority.

The siting of the dwellings is a matter for consideration at this time. As such all references to design and external appearance on the drawings are for illustrative purposes only. The dwellings could be accommodated without significant impact on the adjacent dwellings. The dwellings on the Green are located sufficiently far away from the proposed dwellings so that the required separation distances are met.

A Tree Preservation Order protects the trees on the site. There is a significant horse chestnut tree in the centre of the site and the remaining dwellings have been assessed to demonstrate that the tree would not unduly shade the dwellings. A tree protection zone has been identified and if permitted it is recommended that a condition be attached requiring the implementation of an approved Method Statement and Tree Protection Plan before the development is commenced.

The possibility of archaeological remains is confirmed by the County Archaeologist and he recommends that a condition be imposed requiring an archaeological survey be undertaken prior to the building works commencing in order that any archaeology can be recorded.

Subject to attaching the various conditions below, the application is considered acceptable.

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

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

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

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

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

3. 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.

4. As part of the submission of the reserved matters required by condition 2 above, a scheme for the archaeological investigation of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be drawn up in accordance with a written scheme of investigation (WSI) submitted by the applicant and approved by the Development Control Archaeologist acting on behalf of the Local Planning Authority. No development shall take place until the approved scheme has been implemented and the results assessed.

Reason: In order that the archaeological significance of the site can be assessed and recorded prior to the commencement of building operations.

5. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of protected trees shall be fenced with chestnut pale fencing to a minimum height of one metre staked at 3 metre centres. The extent of the fencing shall be established in accordance with an Arboriculture Method Statement and Tree Protection Plan that shall have been submitted to and approved in writing by the Local Planning Authority. The AMS and TPP shall be produced in accordance with the guidance attached to this planning permission. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees from undue disturbance

6. Before any other operations are commenced, a new vehicular access shall be created to Sycamore Avenue in accordance with the application drawings, laid out, constructed and provided with visibility sight lines from a point 2.4 metres from the carriageway edge measuring along the centre line of the access for a distance of 70 metres in an easterly direction measuring along the nearside carriageway edge. The land in advance of the sight line shall be cleared on all obstructions to visibility greater than 1.0 metre in height relative to the nearside carriageway edge channel level.

Reason: In the interests of highway safety.

7. None of the dwellings hereby permitted shall be occupied until space has been provided within the application site in accordance with the application drawings for parking and manoeuvring of residents' vehicles. The areas shall be surfaced and retained available for their designated use free from any impediment to that use in perpetuity.

Reason: To ensure that adequate parking and manoeuvring space is available.

8. Notwithstanding the requirements of Condition 6 above, the permission hereby granted permits the formation of an access road within the identified tree protection zone. The works to form the access road within the tree protection zone shall be carried out in accordance with a method statement that shall have received the prior written approval of the Local Planning Authority.

Reason: It is necessary to protect the root system of the horse chestnut tree and any mechanical excavations are likely to harm the long-term health of the tree. The Local Planning Authority seeks to make it clear that the method of working in the vicinity of the tree is to be strictly controlled.

9. No plant, machinery, building materials or buildings shall be sited, stored or work within the area of the canopy of any tree within the site. The position of the builders compound shall be agreed in writing with the Local Planning Authority before any works are commenced.

Reason: In the interests of the long-term health of the trees on the site that are all protected by Derbyshire County Council Tree Preservation Order no 70.

10. 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.

11. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

Item 1.2

Reg. No. 9/2007/0127/NT

Applicant:
T Mobile UK Ltd

Agent:
Katy Jessop
Stappard Howes
Unit 4a, Sovereign Court 2
University of Warwick Science Park
Sir Williams Lyons Road
Coventry
CV4 7EZ

Proposal: The erection of a 12m replica telegraph pole, 3 shrouded antennae and 2 equipment cabinets at Land west of Arleston Lane and South of Wragley Way Sinfen Derby

Ward: Stenson

Valid Date: 29/01/2007

Reason for committee determination

The application is brought to committee at the request of Councillor Shepherd because local concern has been raised about a particular issue.

Site Description

The site lies adjacent to the Wragley Way southern carriageway channel opposite a grassed area at the Beaufort Road Junction, equidistant between an existing lamppost and a bus stop.

Proposal

This is an application for determination as to whether prior approval of siting and appearance is required. A 12 metre high 'replica telegraph pole' is proposed with 3 shrouded antennae, 2 ground level equipment cabinets, and ancillary development. The area of coverage (cell) is a local built-up area, centred on Stenson Fields School.

Applicant's Supporting Information

The applicant has submitted the following information and comments:

- Details of nine potential alternative sites, including existing and permitted masts, with reasons why they are not suitable or available to provide the requisite cell coverage.

- Certification of compliance with guidelines for public exposure to electromagnetic fields (ICNIRP).
- Coverage plot maps to demonstrate the need for the mast.
- The proposed telegraph pole design, seen in the context of existing telegraph poles and street lighting, would help the installation to blend in with the street scene.
- The applicant has endeavoured to site the installation as far as operationally possible away from sensitive land uses, but this has been difficult due to the residential nature of the search area.

Responses to Consultations

Any responses will be reported verbally.

Responses to Publicity

A local resident has commented on the effects of micro radiation and the proximity to existing and proposed residential development.

Development Plan Policies

The relevant policies are:

Local Plan: Community Facilities Policy 4

Planning Considerations

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

- The principle
- Visual impact

Planning Assessment

Provision is made for telecommunications masts, not more than 15 metres high, in the General Permitted Development Order (GPDO). Therefore the principle of a 12 metre high mast in this locality, to provide effective cell coverage, is not in dispute.

Under the provisions of the GPDO the local planning authority may only concern itself with matters of siting and appearance in this instance. The applicant has considered several other potential sites, including relevant existing and permitted installations identified in the Council's mast register. A number of the alternative sites would have been within the built-up residential area. A mast away from the built-up area, close to the A50 would not have provided the necessary coverage. The proposed installation would be separated from the curtilages of the nearest neighbours by the public highway and an area of grass on the north side of the road. The proposed telegraph pole design would help to minimise the visual impact of the structure in its landscape context. On balance the proposal represents an acceptable solution that takes into account PPG8, Local Plan policy and the Council's own Mobile Phone Mast Advisory Guidance.

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

NOTIFY the applicant that prior approval is not required.

Item 1.3

Reg. No. 9/2007/0176/TC

Applicant:
Martin P Buckley

Agent:
Martin P Buckley
Tree Inspector
Leisure Services
South Derbyshire District Council

Proposal: The felling of trees at Greenbank Leisure Centre
Civic Way Swadlincote

Ward: Swadlincote

Valid Date: 15/02/2007

Reason for committee determination

This application is before the Committee because the Council is the applicant. A decision on this case is required at the Committee given the statutory time constraint.

Site Description

One tree lies to the rear of the garden off the junction of Alexandra Road and Grove Street (beech). The remaining trees front onto West Street at the rear of Grove Hall and comprise various species including lime, hawthorn, hornbeam, beech and horse chestnut.

Proposal

It is proposed to fell 5 trees and prune/pollard 10 others. The statement that accompanies the application suggests that all the trees have a variety of problems associated with them that either justifies felling the trees or pollarding them. In particular the beech at the rear of the gardens need to be felled because of rot in its trunk.

Applicants' supporting information

See above.

Planning History

The trees lie in the Swadlincote Conservation Area and prior notification is required before works are undertaken.

Responses to Consultations

The views of the Council's arboricultural consultant are awaited and will be reported verbally at the meeting.

Responses to Publicity

At the time this report was prepared, no replies had been received.

Development Plan Policies

The relevant policies are:

RSS8:

Joint Structure Plan: Environment Policy 15

Local Plan: Environment Policy 9

Planning Considerations

The main issue central to the determination of this application is whether the works proposed to the trees should be controlled through the imposition of a Tree Preservation Order on the trees.

Planning Assessment

A report on the tree assessment from the arboricultural consultant will be made verbally at the meeting together with a recommendation on the appropriateness or otherwise imposing a Tree Preservation Order.

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

Unless otherwise recommended by the arboricultural consultant, raise **no objection** to the works.

Item 2.1

Reg. No. 9/2007/0050/U

Applicant:
Mr Mrs K Ellis
Egginton Hall
Church Road
Egginton
Derby
DE65 6HP

Agent:
Mr Mrs K Ellis
Egginton Hall
Church Road
Egginton
Derby
DE65 6HP

Proposal: The change of use of garden store to office (B1 use) including the installation of pitched roof and three windows at Egginton Hall Church Road Egginton Derby

Ward: Etwall

Valid Date: 12/01/2007

Reason for committee determination

The application is brought to Committee at the request of Councillor Southern who considers that local concern has been expressed about a particular issue and that issues are finely balanced that require Committee consideration.

Site Description

The site is a small part of the overall site of the Egginton Hall building and land. The building is located immediately adjacent to the access drive. It is a 1½ storey structure that has a yard that is enclosed by a brick wall and has a flat roof. A Tree Preservation Order protects the trees in the vicinity of the site.

Proposal

In order to provide the workshop within the building it is intended that the existing structure be provided with a pitched roof. In terms of the differences with the previous applications that have been submitted recently for this building, all decorative features have been removed from the roof and windows. The number of new openings has been reduced to 3, two plain windows and a door opening in the side elevation that would be screened by the existing enclosing wall. No other alterations to the boundary wall and building are now proposed (previously the boundary wall would have been reduced in height).

Applicants' supporting information

The applicant states that the proposals for the building have now changed to meet his personal circumstances – he would be working from home and requires a designated office.

The applicant has looked closely at the previous refusal and appeal decisions and has concluded that the main point is that the building must not intrude any further into the countryside. The current proposals have been reduced in height so that at no point is the apex of the roof any higher than the height of the existing building. All bargeboards have been omitted, as have the velux roof lights. No chimney is now proposed. Changes to the building that are proposed relate to the insertion of two new windows on the 'drive' side of the building that only impinge on the occupiers of Egginton Hall. The design of the windows is such that they can be cut into the existing bricks without the need for lintels and it is requested that the Committee notes the simple design of these windows. There is a new door as described above.

The changes are very modest and the development would result in a reduction in traffic movements to and from the site. The building has suffered damage from a recent falling branch resulting in the building leaking.

Planning History

There have been four recent cases relating to the building that have all been refused and the subject of subsequent appeals. All four appeals have been dismissed and the last one clearly looked at the need for the use to be located in the countryside in this building and its impact on the countryside. All the inspectors concluded that the building conversion proposed in those applications were over elaborate and as such would have an adverse impact on the character of the countryside.

The most recent appeal inspector conclusions are set out in the appeal decision that is appended to the back of this report. Particular attention is drawn to paragraphs 5 & 6 where he considers the extent of the impact of the changes on the building and the impact on the character and appearance of the countryside.

Responses to Consultations

Egginton Parish Council has no objection.

The County Highway Authority has no objection on the basis of personal use described in the application.

The Environmental Protection Manager has no comments.

The Environment Agency objects to the development on the basis that no flood risk assessment has been submitted with this application. An assessment accompanied the previous application that was accepted by the Environment Agency and as such, given that no additional persons would be resident at the site and the recommendation below, it is not proposed to request that the FRA be resubmitted with this application.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

RSS8: none

Joint Structure Plan: General Development Strategy Policy 4, Economy Policy 5,

Local Plan: Environment Policy 1, Employment Policy 4.

Planning Considerations

The main issues central to the determination of this application are compliance with the Development Plan and especially the impact of the conversion on the character and appearance of the building and the area generally.

Planning Assessment

General Development Strategy Policy 4 of the adopted Structure Plan and Environment Policy 1 seek to limit development in the countryside to that which is necessary in a countryside location. Economy Policy 5 of the Structure Plan and Employment Policy 4 of the Local Plan state that the conversion of existing buildings to employment use can be acceptable where injury is unlikely to be caused to local amenities or the environment and that the proposal is in keeping with the building and its surroundings.

Although it could be argued that the location of the building is relatively isolated, it could be reused and thereby make a small contribution to the rural economy. In this way the proposal could be considered sustainable. However, the policy also requires consideration of the impact of the conversion on the environment. Thus the policy requires us to consider the effect of the conversion on the appearance of the building and the impact of that conversion on the character and appearance of the area. In this regard the applicant has sought to amend the proposals to reduce the amount of alteration to what he sees as a minimum to reuse the building, the aim being to minimise future maintenance by installing a pitched roof.

Whilst the alterations in this application are less than those considered by the Inspector who looked at the live/work proposal, the conclusions in the latest decision suggest that alterations that include a pitched roof could still have a significant impact on the character and appearance of the building and therefore the area generally. The Inspector also stated that he was not convinced that the form and character of the building would make it suitable for conversion in this location.

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

Recommendation

REFUSE permission for the following reason:

The character and form of the existing building does not render itself suitable for conversion without extensive alteration and extension such that the utilitarian character of the original building would be altered beyond recognition contrary to Employment Policy 4 of the adopted Local Plan and General Development Strategy Policy 4 of the Derby & Derbyshire Joint Structure Plan in as far as it deals with the adaptation and change of use of a building in the countryside.

Item **2.2**

Reg. No. **9/2007/0059/F**

Applicant:
Mr Mrs K Ellis
Egginton Hall
Church Road
Egginton
Derby
DE65 6HP

Agent:
Mr Mrs K Ellis
Egginton Hall
Church Road
Egginton
Derby
DE65 6HP

Proposal: **Proposed new roof to garden store at Egginton Hall
Church Road Egginton Derby**

Ward: **Etwall**

Valid Date: **12/01/2007**

Reason for committee determination

The application is brought to Committee at the request of Councillor Southern who considers that local concern has been expressed about a particular issue and that issues are finely balanced that require Committee consideration.

Site Description

The site is a small part of the overall site of the Egginton Hall building and land. The building is located immediately adjacent to the access drive. It is a 1½ storey structure that has a yard that is enclosed by a brick wall and has a flat roof. A Tree Preservation Order protects the trees in the vicinity of the site.

Proposal

In order to provide the garden store within the building it is intended that the existing structure be provided with a pitched roof.

Applicants' supporting information

The applicant has looked closely at the previous refusal and appeal decisions and has concluded that the main point is that the building must not intrude any further into the countryside. The current proposals have been reduced in height so that at no point is the apex of the roof any higher than the height of the existing building. All bargeboards have been omitted, as have the velux roof lights. No chimney is now proposed.

The changes are very modest; the building has suffered damage from a recent falling branch resulting in the building leaking. It is hoped that the simple proposal for use as a garden store will be acceptable to the Local Planning Authority.

Planning History

There have been four recent cases all refused and subjected to appeal. All four appeals have been dismissed and the last one clearly looked at the need for the use to be located in the countryside in this building and its impact on the countryside. All the inspectors concluded that the building conversion proposed in those applications were over elaborate and had an adverse impact on the character of the countryside.

The most recent appeal inspector conclusions are set out in the appeal decision that is appended to the back of this report. Particular attention is drawn to paragraphs 5 & 6 where he considers the extent of the impact of the changes on the building and the impact on the character and appearance of the countryside.

Responses to Consultations

Egginton Parish Council has no objection

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

RSS8: none

Joint Structure Plan: General Development Strategy Policy 4, Economy Policy 5,

Local Plan: Environment Policy 1, Employment Policy 4.

Planning Considerations

The main issues central to the determination of this application are compliance with the Development Plan and especially the impact of the conversion on the character and appearance of the building and the area generally.

Planning Assessment

General Development Strategy Policy 4 of the adopted Structure Plan and Environment Policy 1 of the Local Plan seek to limit development in the countryside to that which is necessary in a countryside location.

The main issue is the effect of the conversion on the appearance of the building and the impact of that conversion on the character and appearance of the area. The applicant has sought to amend the proposals to reduce the amount of alteration to what he sees as a minimum to reuse the building. The aim is to minimise future maintenance by installing a pitched roof.

Whilst the alterations in this application are less than those considered by the Inspector who looked at the live/work proposal, the conclusions in the latest decision suggest that

alterations that include a pitched roof would have a significant impact on the character and appearance of the building and the area generally. Accordingly the following recommendation is considered appropriate.

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

Recommendation

REFUSE permission for the following reason:

The character and form of the existing building does not render itself suitable for conversion without extensive alteration and extension such that the utilitarian character of the original building would be altered beyond recognition contrary to Employment Policy 4 of the adopted Local Plan and General Development Strategy Policy 4 of the Derby & Derbyshire Joint Structure Plan in as far as it deals with the adaptation and change of use of a building in the countryside.