

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: 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).

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) and responses to County Matters.

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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 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 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. **9/2008/0012/U**

Applicant:

Mr J Oliver
11 Church Lane
Barrow-on-Trent
Derby

Agent:

Mr. E. Austin Planning & Building
Services
"Solitaire"
Higham
Derbyshire
DE55 6EH

Proposal: **The conversion of outbuilding to four dwellings at
Outbuildings within Curtilage of The Walnuts 11 Church
Lane Barrow-on-Trent Derby**

Ward: **Aston**

Valid Date: **07/01/2008**

Reason for committee determination

The application is the subject of an objection from the Environment Agency.

Site Description

The site comprises a group of historic former stables within the curtilage of The Walnuts, a Grade II Listed Building within Barrow Conservation Area. They sit within a yard enclosed by a high brick wall. Access is gained via Club Lane.

The Environment Agency's flood risk maps show a small part of the site to be affected by a Zone 3 (greater than 1 in 100 year) risk. The majority of the site lies outside the identified risk area, on an 'island'. Club Lane reverts to the Zone 3 risk area to the north of the site.

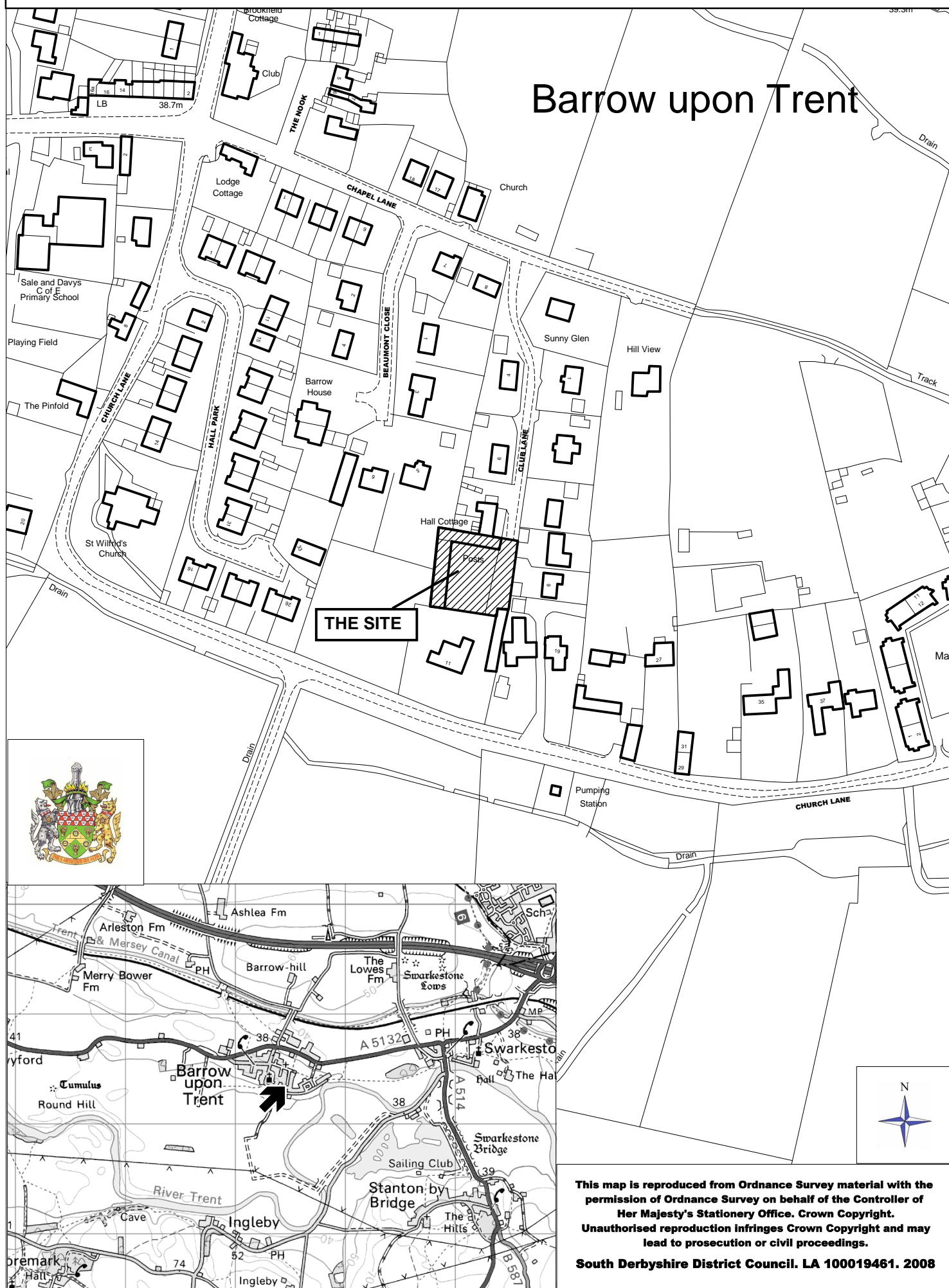
Proposal

The application seeks to convert the outbuildings to four dwellings (one 3 bedroom and three 2 bedroom). An extension to the southern part of the group is proposed. Parking is shown provided in the courtyard.

Applicants' supporting information

The applicant has provided survey data to demonstrate that the site did not flood at the time of the highest recorded flood in 2000. Club Lane remained dry at that time. Local research indicates that the site has never flooded.

9/2008/0012/U - Outbuildings within curtilage of The Walnuts, 11 Church Lane, Barrow on Trent



It is stated that members of the applicant's family would occupy two of the units.

Planning History

Permission has previously been granted and renewed (1995 and 1999) for conversion of the outbuildings to three dwellings. This permission was never implemented and has since lapsed.

Responses to Consultations

The Parish Council objects to the proposed rooflight in the elevation facing 5 Beaumont Close.

The Highway Authority, Design and Conservation Officer and Contaminated Land Officer have no objection in principle.

The Environment Agency objects because its flood model indicates that Club Lane would be inundated with 800 mm of water in an extreme flood event. There would be potential risk to life arising from lack of safe access and egress during times of flood. As such, overall safety as advised in PPS25 could not be achieved.

The County Council's Emergency Planning Manager has commented that generic plans and procedures exist for undertaking evacuations in the event of flood and will be further enhanced in the near future. An additional four dwellings would not cause any significant increase upon current demands. It is recommended that measures to protect the property from flood be incorporated in the scheme.

Responses to Publicity

Letters have been received from 4 neighbours raising the following objections:

- a) There would be overlooking to 7 Club Lane
- b) Increased traffic would result in danger to pedestrians, in particular the children who use Club Lane which is narrow, unadopted with no pavements.
- c) The proposed rooflight in the west elevation would overlook 5 & 6 Beaumont Close.
- d) The plans show lowering of ground levels to the adjoining property, which has not been agreed between the parties.
- e) The window adjacent to Gardener's Cottage should be obscure glazed.
- f) The number of units proposed would lead to parking in Club Lane causing congestion.

Development Plan Policies

The relevant policies are:

RSS8: Policies 3 & 31

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

Planning Considerations

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

- The principle.

- Impact on the character of the conservation area and the listed building.
- Residential amenity.
- Highway safety.
- Contaminated land.
- Flood risk

Planning Assessment

Barrow on Trent has few facilities and is not considered a suitable location for new residential development. However limited infill development and conversions can be acceptable. In this case the development would bring unused listed buildings back into economic use and this is a significant sustainability criterion. Therefore the principle of the development is acceptable.

The details of the conversion are acceptable to the Design and Conservation Officer and the impact on the conservation area and the setting of the listed building would be positive.

Subject to certain windows being obscure glazed the proposal would comply with supplementary planning guidance and the impact on neighbours would not be demonstrably harmful.

On the advice of the Highway Authority there would be no harm to highway safety interests.

Any contamination could be dealt with by standard condition.

The Environment Agency's fundamental concern relates to the issue of dry access and egress in the event of a major flood. This is an issue acknowledged by PPS25. However it is incumbent upon the Local Planning Authority to have regard to all material considerations. The location of the buildings is a matter of history. They are listed and it is clearly desirable to bring them into active use to secure their future, as advocated by PPG15 (Planning and the Historic Environment). The development would not bring about any flood risk to third parties and measures could be implemented to reduce the impact of any flood on the fabric of the building. The Emergency Planning Officer has affirmed that, in the event of an emergency, the occupants would be dealt with in conjunction with other affected residents, without any material burden on resources. On balance the benefits of the development outweigh the probable event of occupiers having to follow the same emergency procedures as the other local residents.

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. This permission shall relate solely to the plans submitted with the application, as amended by drawing no JO/WBT/6a received 29 January 2008, unless as otherwise required by condition attached to the permission and unless as may otherwise be agreed in writing with the Local Planning Authority.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. The kitchen window in the north elevation to Unit 3 and the rooflight in the west facing roof slope to Unit 2 shall be permanently glazed with obscure glass and shall not have any opening lights; and the bedroom window in the eastern gable to Unit 4 shall be permanently glazed with obscure glass. Details and specifications of the obscure glass shall be submitted to and approved in writing by the Local Planning Authority prior to installation.
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy and to ensure that the glazing is in keeping with the character of the listed building.
4. The area shown on the submitted drawings for the parking and manoeuvring of vehicles shall be provided prior to the first occupation of the development and shall be retained as such thereafter, unless as may otherwise be agreed in writing with the Local Planning Authority.
Reason: To ensure that adequate parking/garaging provision is available.
5. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.
Reason: To ensure the building is in keeping with its surrounding in the interest of the character and visual amenity of the area.
6. Large scale drawings to a minimum Scale of 1:10 of eaves and verges, external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves and verges and external joinery shall be constructed in accordance with the approved drawings.
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
7. Notwithstanding any details submitted, precise details of the type and size of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

8. 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 and the character of the area.

9. Pointing of the existing/ proposed building shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".

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

10. A sample panel of pointed brickwork 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 prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

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

11. 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 and the character of the area.

12. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

13. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the materials to be used in the construction of the external hard surfaces of the site have been submitted to and approved in writing by the Local Planning Authority. The approved materials shall be incorporated in the development and completed prior to its first occupation unless as may otherwise be agreed in writing with the Local Planning Authority.

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

14. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of

section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

B) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) If required by the conceptual site model, no development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

15. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

16. Prior to the commencement of the development details and specifications of measures to protect the building from flood damage shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be incorporated in the development, completed prior to the first occupation of each unit to which they relate, and shall be retained as such thereafter.

Reason: In the interests of flood protection.

17. All boundary walls shall have a traditional style of shaped clay or stone coping the details, including a sample, of which shall have been previously agreed in writing by the Local Planning Authority.

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

18. The extent of repointing works shall be agreed in writing by the Local Planning Authority before any such works are commenced.

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

Informatives:

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk. This permission is for conversion and it does not convey any right to demolition and replacement by a substitute building. Any further demolition/replacement necessitated by on-site works should be first agreed in writing by the Local Planning Authority.

Item **1.2**

Reg. No. **9/2008/0013/L**

Applicant:

Mr J Oliver
11 Church Lane
Barrow-on-Trent
Derby

Agent:

Mr. E. Austin Planning & Building
Services
"Solitaire"
Higham
Derbyshire
DE55 6EH

Proposal: **The conversion of outbuilding to four dwellings at
Outbuildings within Curtilage of The Walnuts 11 Church
Lane Barrow-on-Trent Derby**

Ward: **Aston**

Valid Date: **07/01/2008**

For detail see report for 9/2008/0012/U on this agenda.

Recommendation

GRANT Listed Building Consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
2. This consent shall relate solely to the plans submitted with the application, as amended by drawing no JO/WBT/6a received 29 January 2008, unless as otherwise required by condition attached to the permission and unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the building is in keeping with its surrounding in the interest of the character and visual amenity of the area.
4. Large scale drawings to a minimum Scale of 1:10 of eaves and verges, external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves and verges

and external joinery shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

5. Notwithstanding any details submitted, precise details of the type and size of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

6. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. 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 and the character of the area.

7. Pointing of the existing/ proposed building shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".

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

8. A sample panel of pointed brickwork 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 prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

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

9. 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 and the character of the area.

10. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

11. All boundary walls shall have a traditional style of shaped clay or stone coping the details, including a sample, of which shall have been previously agreed in writing by the Local Planning Authority.

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

12. The extent of repointing works shall be agreed in writing by the Local Planning Authority before any such works are commenced.

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

Item **1.3**

Reg. No. **9/2008/0809/SA**

Applicant:

Mr John Bowler
John Bowler (Agricultural) Ltd
Willowpit Lane
Hilton
Derbyshire
DE65 5FN

Agent:

Mr Ian Pick
Ian Pick Associates Ltd
Unit 9
Driffield
East Yorkshire
YO25 6QP

Proposal: **Outline application (all matters reserved accept for access and layout) for the erection of a pullet rearing building at Land South of Lower Farm Stenson Derby**

Ward: **Stenson**

Valid Date: **01/08/2008**

Reason for committee determination

This is a major application subject to more than two letters of objection.

Site Description

The site is a flat field lying to the south of Stenson and adjacent to the Derby Rifle and Pistol Club firing range. A mature hedge defines the roadside boundary.

A children's camp is being developed in the adjacent field to the west.

Proposal

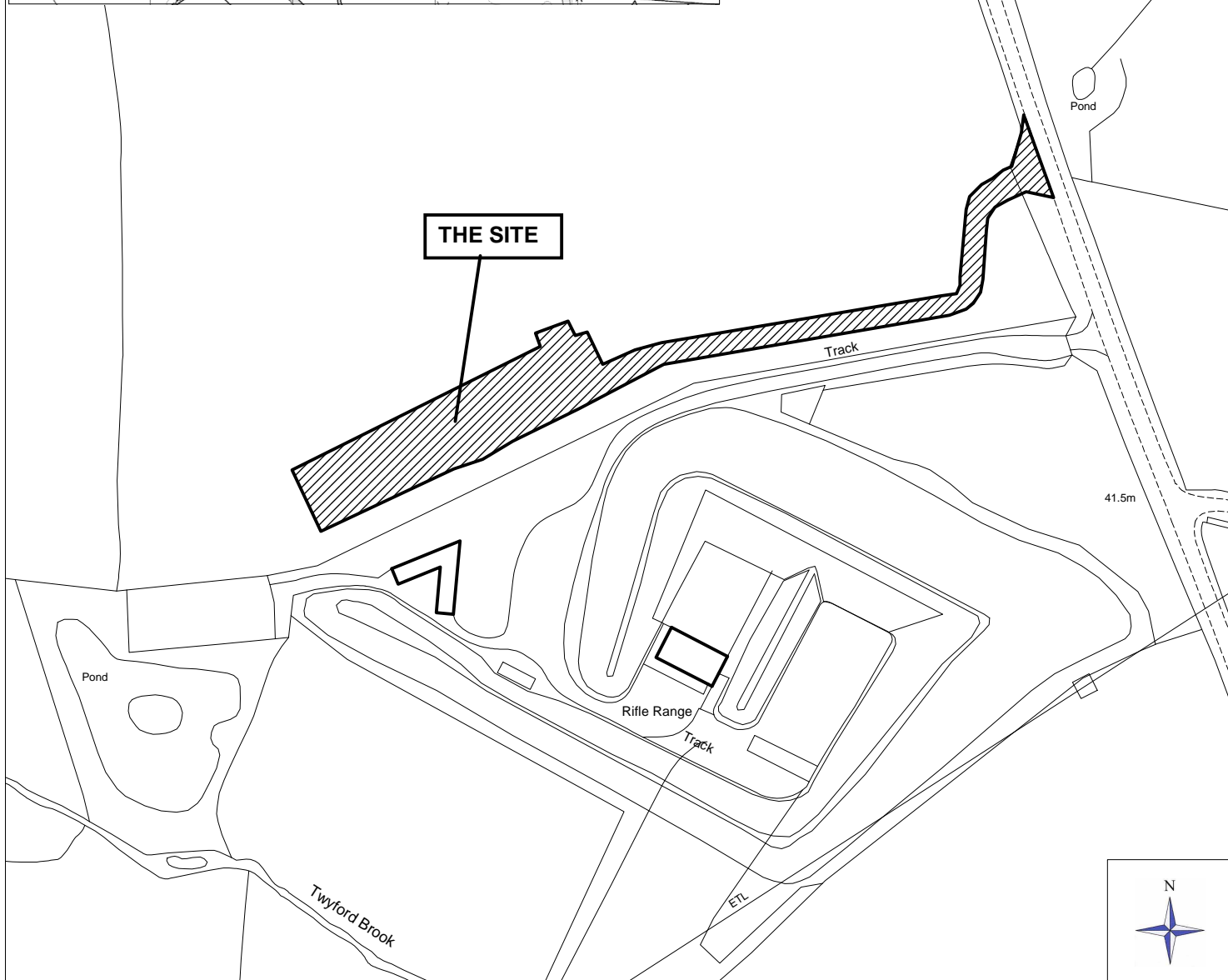
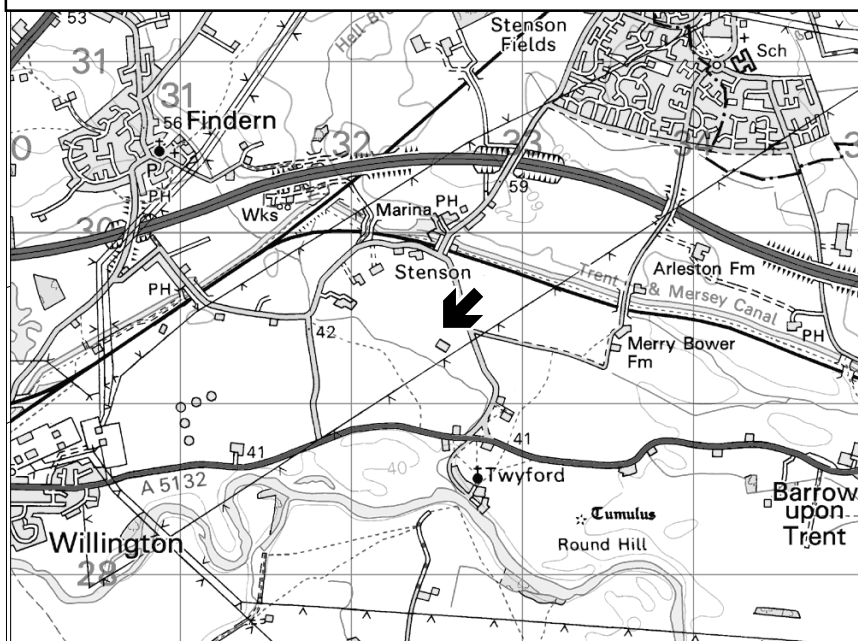
The application is in outline and seeks permission for a modern agricultural building, measuring 90 m x 18.3 m in plan. Its height would be 5.4 m to the eaves and 7.9 m to the ridge. The building would be clad with polyester coated composite panels. It would be situated close to the southern boundary of the field adjacent to landscaping for the rifle and pistol range.

The building would be used to rear pullets for despatch to free range egg producers, on a 20-week cycle.

Applicants' supporting information

- a) The applicant company operates and egg production franchise, amounting to 120 units with 1.5 million free-range laying birds.

9/2008/0809/O - Land to South of Lower Farm, Stenson



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South Derbyshire District Council. LA 100019461. 2008

- b) At present the company has to purchase all new pullets. The purpose of the development is to reduce reliance on external suppliers.
- c) The unit would house 64000 birds on a 20-week cycle. At the end of each cycle the building would be cleaned out ready for the next intake.
- d) The unit is designed to produce negligible smells. There would be some odour when the unit is cleaned out but this would last for no more than 1 or 2 days every 5 months.
- e) Dust would be extracted by fans angled towards the ground to minimise emissions to the air.
- f) Flies and rodents would be controlled by routine management measures.
- g) There would be 31 commercial/agricultural vehicle movements per flock cycle.

Planning History

Permission was granted for a new farm unit and temporary dwelling on the field last year (9/2007/0198, 9/2008/0456 and 9/2007/0718).

Responses to Consultations

The Highway Authority, Environment Agency and Development Control Archaeologist have no objection in principle.

The Pollution Control Manager is concerned about the potential effects of noise, odour and pests on the occupiers of the permitted children's camp and considers that appropriate conditional control is necessary.

Responses to Publicity

Five letters have been received raising the following objections:

- a) There could be undue disturbance to horses kept on the adjoining land. The building could be moved to reduce such impact.
- b) There could noise, odour and dust to the detriment of the amenities of the occupiers of nearby residential property and visitors to the children's camp and tourist attractions at Stenson Marina.
- c) There would be excessive heavy vehicle movements on narrow lanes.
- d) If accepted the development would prejudice policies to restrict development in the conservation area.
- e) The building should be landscaped and re-sited to reduce its visual impact.
- f) The nearby fishing lake could be contaminated by the disinfectant used in the cleaning process.

Development Plan Policies

The relevant policies are:

RSS8: Policy 6.

Local Plan: Policies EV1 EV5 T6

Planning Considerations

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

- The principle.

- Impact on the character of the countryside.
- Residential amenity.
- Pollutions control.
- Archaeology.
- Highway safety.

Planning Assessment

The development would be for the purposes of agriculture and thus acceptable in the countryside as a matter of principle.

Local Plan Policies EV1 and EV5 seek to ensure that essential development in the countryside is designed and sited so as to minimise its visual impact. There is no other position on the applicant's land where the building would have less impact. The existing vegetation at the rifle and pistol club and the roadside boundary hedge serve to screen the proposed development to some extent. Additional landscaping would further reduce visual impact.

The nature of the use produces the potential for noise, dust and odour. However the applicant has stated that measures would be put in place to control these issues and there is no evidence to contradict this. Conditional control to ensure that the measures be implemented, along with control over the noise emitted from the extractor fans would ensure protection of the amenities of nearby occupiers.

There is no evidence that adjacent land would be polluted. In addition the number of birds proposed for the unit would bring it under the control of an Environmental Permitting Regulations Permit administered by the Environment Agency.

A condition to require an archaeological watching brief would safeguard this interest.

There would be minimal traffic associated with the use and thus no demonstrable harm to highway safety.

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 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. 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.

4. Construction work shall not begin until a scheme for protecting the adjacent noise-sensitive development at Fryzms House Farm from noise from the has been submitted to and approved in writing by the local planning authority; and all works which form part of the scheme shall be completed before the building is first brought in to use.

Reason: To protect the aural amenities of the occupiers of the adjacent noise sensitive development.

5. Measures to control odour and dust emissions shall be implemented in accordance with the submitted Design Access and Planning Statement and shall be retained for the duration of the use of the building.

Reason: In the interest of the amenities of adjacent occupiers.

6. No development shall take place, until the developer has secured the implementation of a programme of an archaeological watching brief to be maintained on all groundworks, in accordance with a written scheme of investigation submitted to and approved by the Local Planning Authority in writing. The scheme shall include on-site work and off-site work, such as the analysis, publication and archiving of the results. All works shall be carried out and completed as approved, unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: To enable items of archaeological interest to be recorded.

7. Unless as may otherwise be agreed in writing with the Local Planning Authority, prior to the commencement of any other works, the access shall be modified in accordance with the application drawing. The access shall have a minimum width of 6m and be surfaced in a solid bound material for at least 15m into the site from the highway boundary, be provided with 10m radii on each side and visibility sightlines of 2.4m x 120m, the area forward of which shall be cleared and maintained in perpetuity clear of any obstruction to visibility exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

8. Any gates shall be set back at least 15m from the highway boundary and shall open inwards only.

Reason: In the interests of highway safety.

9. No development shall take place until details of an area within the site curtilage for the parking and manoeuvring of vehicles has been submitted to and approved in writing by the Local Planning Authority. The area as approved by the Local Planning Authority shall be laid out and hard surfaced accordingly prior to the first use of the development and be retained available for that purpose thereafter.

Reason: In the interests of highway safety.

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 Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

The site will require an Environmental Permitting Regulations permit from the Environment Agency.

Item **1.4**

Reg. No. **9/2008/1060/FH**

Applicant:
Mr Sandall
Thulston
Derby
DE72 3WF

Agent:
Mr Tim Foster
2 Broomfield Cottages
Morley
Ilkeston
Derbyshire
DE7 6DN

Proposal: **The erection of an extension at 4 Grove Court Thulston
Derby**

Ward: **Aston**

Valid Date: **17/10/2008**

Reason for committee determination

The application is brought to Committee at the request of Councillor Coyle (ward member) as local concern has been expressed about a particular issue.

Site Description

The site is located in Grove Court, a residential estate in the village of Thulston. The property is a former farm outbuilding and has been converted to create a single storey dwelling. The site is level.

Proposal

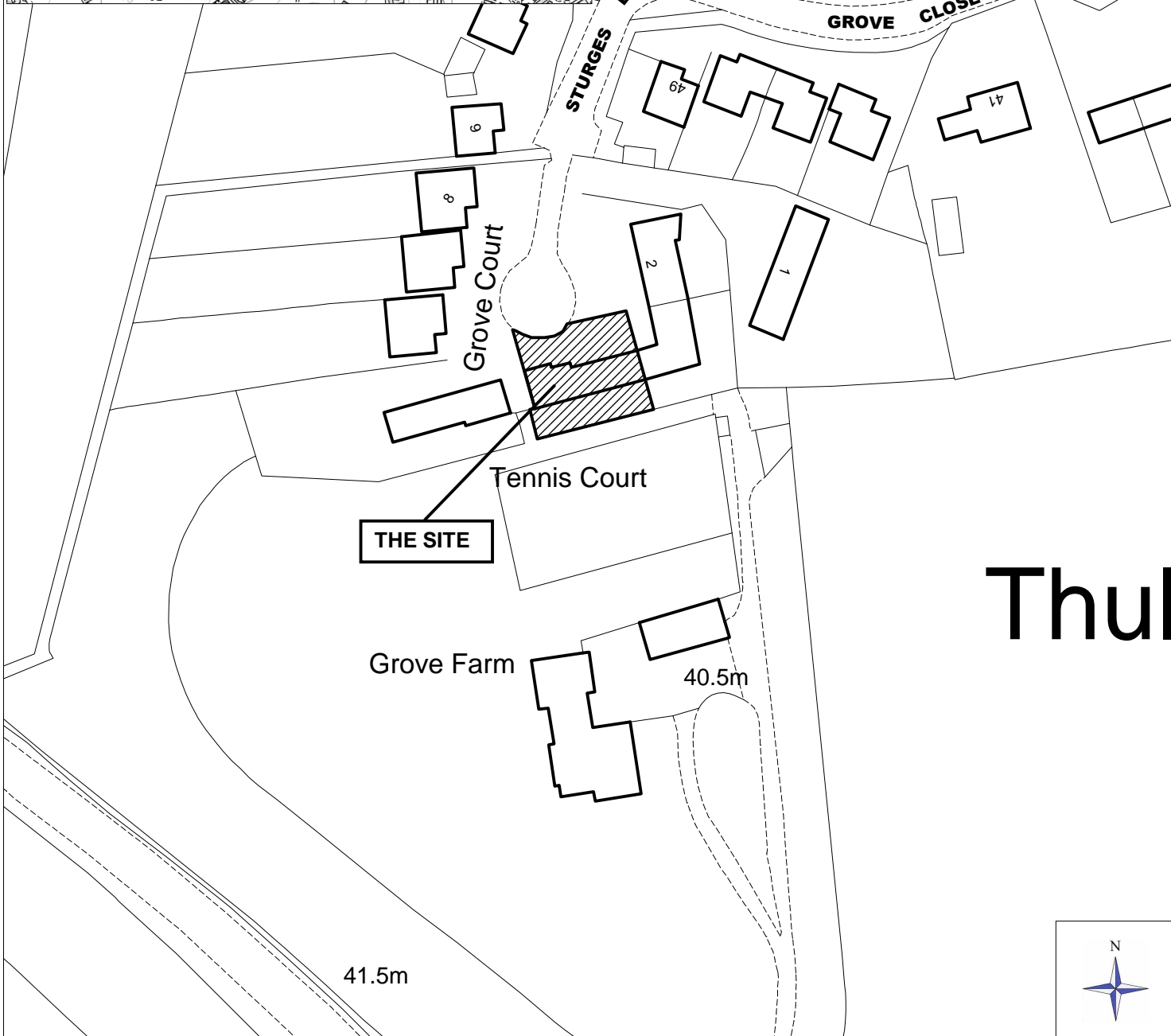
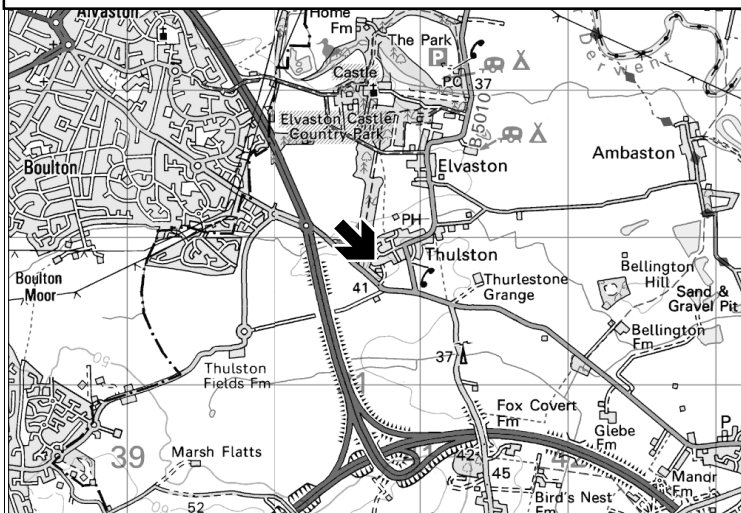
The proposal is an extension to the first floor (over the existing lounge area), creating an extra bedroom with ensuite bathroom. There is also a small addition to the front porch.

Applicants' supporting information

None.

Planning History

This former farm outbuilding was converted as part of a scheme granted permission in 1981.



Thul



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South Derbyshire District Council. LA 100019461. 2008

Responses to Consultations

The Design and Conservation Officer considers that the proposal does not negatively impact on the setting and gardens of Elvaston Castle.

Elvaston Parish Council has objected. Their primary concerns are:

- a) It is alleged that the original permission required that no development should be permitted above the current roof height.
- b) Loss of character to dwelling.
- c) Lack of detail in relation to proposed materials.
- d) Overdevelopment of the site.

Responses to Publicity

Six neighbour objections have been received. The comments are summarised as follows:

- Lack of detail contained within application especially relating to proposed materials;
- The submitted plans are inaccurate;
- Not all neighbours received consultation letters;
- Detrimental impact on streetscene/surrounding area;
- 'Minimum distances' policy breached;
- Loss of privacy / Loss of views;
- Over development of site;
- No disabled access consideration;
- Property values would be affected;
- Disruption caused to neighbours during construction of extension

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policy 13, Green Belt Policy 3.

Planning Considerations

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

- Design, scale and character
- Residential amenity

Planning Assessment

Development Plan policy allows for the extension of dwellings in a green belt village provided they are of a scale and character in keeping with the settlement. The property is situated in a pleasant cul de sac of 8 dwellings. Five of these dwellings are conversions of farm outbuildings, formerly part of Grove Farm. Numbers 6,7 and 8 Grove Court are modern detached houses. The design and scale of the proposal are in keeping with the existing situation within the cul de sac. All of the immediate neighbouring properties feature a second storey element. Given the way that the buildings have been converted, no harm would be caused by the proposed extensions because so little of the original agricultural character remains.

There is no overbearance or loss of privacy as assessed against the requirements of Policy H13 and the adopted supplementary planning guidance. Minimum distances are maintained. The rear windows to serve the first floor bedroom are to be obscurely glazed to protect the private amenity area at Grove Farm.

Ten conditions were attached to the existing permission for this dwelling (9/881/726). None of these conditions make any reference to roof height limits or restrictions of such on future applications (each application would have to be considered on its merits anyway). Condition 6 does refer to the use of second hand materials. Materials will again be conditioned as part of this permission. Other design details will need to match the existing.

In response to other comments made; the drawings submitted appear to be accurate, neighbour notification letters were sent in accord with policy, there is no requirement to afford special access to a first floor of an existing dwelling, impact on property values is not a planning consideration, and disruption during construction is generally tolerated for domestic extensions and any particular problems of disturbance dealt with by Environmental Health.

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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 256 GC 001.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
4. The windows in the rear elevation (first floor) of the building shall be permanently glazed in obscure glass.
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.
5. Notwithstanding the submitted details, unless otherwise agreed in writing by the Local Planning Authority, eaves and verge details shall match the existing building.

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

Item **1.5**

Reg. No. **9/2008/1064/NO**

Applicant:

Bretby Park Estate Management Co Ltd
Bretby
Burton-on-trent
Staffordshire
DE15 0RB

Agent:

Mr Anthony Harper
Bretby Park Estate Management Co Ltd
Bretby Hall Bretby Park
Bretby
Burton-on-trent
Staffordshire
DE15 0RB

Proposal: **The installation of traffic control bollards at Bretby Park
Bretby Hall Bretby Burton-on-trent**

Ward: **Repton**

Valid Date: **17/10/2008**

Reason for committee determination

The proposal has attracted significant local opposition and the recommendation is to grant the application following a previous refusal. Policy objections have now been overcome but the same local objections have been raised to this amended scheme.

Site Description

The application site is located within the Grade II registered Bretby historic park in the south eastern extremity of the Bretby Conservation Area on a footpath/bridleway to the northeast of Cedar Court Nursing Home.

Proposal

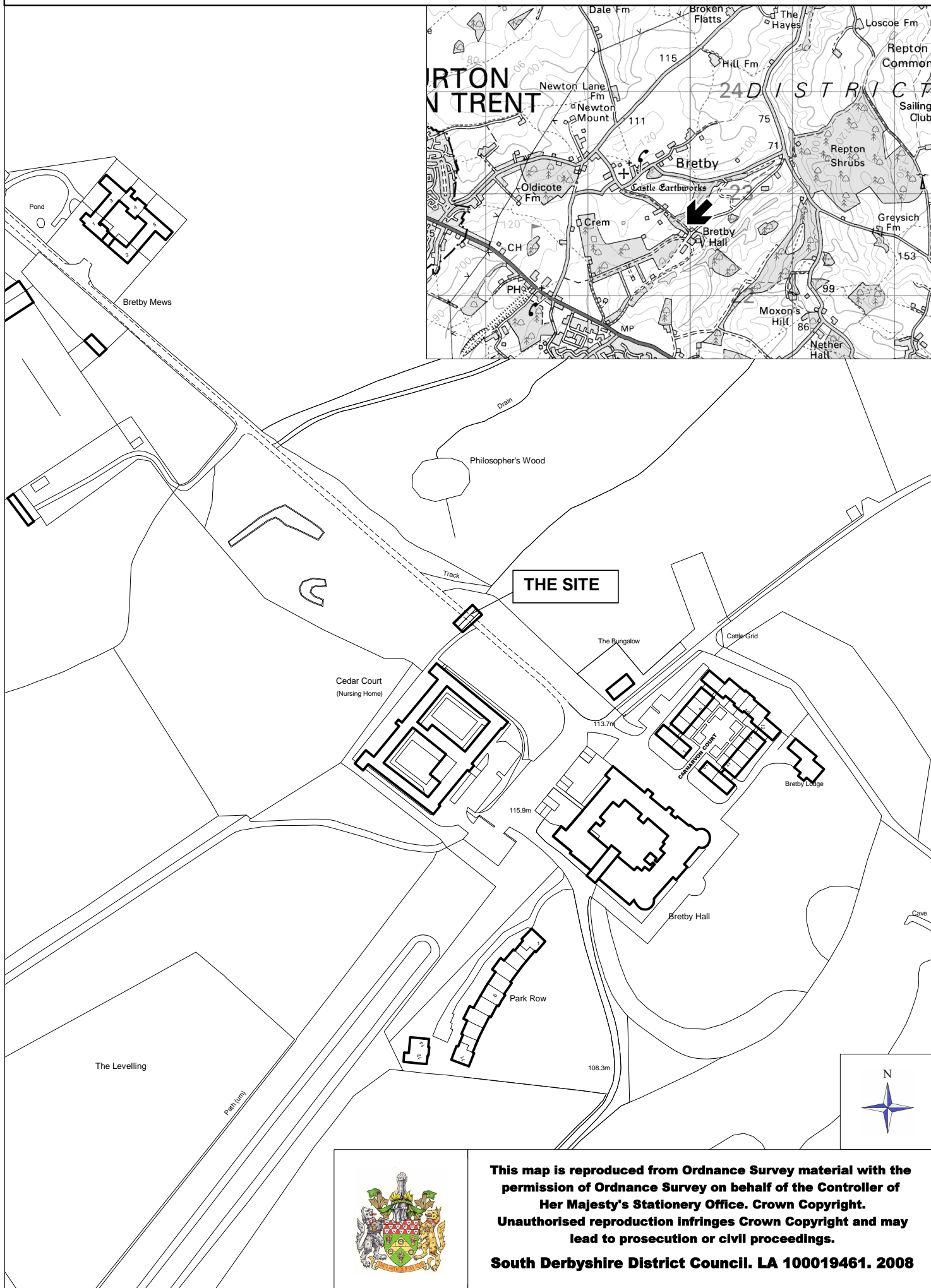
The proposal is for the installation of traffic control bollards on the unadopted lane that links the A511 to Bretby Village.

Applicants' supporting information

Bretby Park Management Company Limited, in agreement with Cedar Court and Perkins Estate Managers, are seeking to implement a traffic control system on the unadopted lane, which links the A511 to Bretby Village, in order to restrict vehicle movements to those who have a right of vehicular access and to minimise unauthorised through traffic.

The proposal is described in the Design and Access Statement as including:

9/2008/1064/NO - Bretby Park, Bretby Hall, Bretby



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South Derbyshire District Council. LA 100019461. 2008

- A single automated 200mm diameter x 810mm high central bollard with ground mounted recessed lights either side which will illuminate the bollard during the hours of darkness;
- A 1.2m high x 150mm square metal side post with integrated traffic lights and a control unit (950mm high x 350mm x 330mm) on the south side of the lane. The control unit will be placed in the adjacent foliage and the automated bollard operates on a radio signal from this box; and
- A 1.2m high x 1.5m wide lockable pedestrian gate in line with the existing barbed wire fence to the north side of the lane.

Clearance between the bollard and the gate/posts would be 1.5m wide enough to preserve the bridleway access standards and, when the bollard is down, to facilitate passage of agricultural vehicles and larger vehicles using the lane. The traffic light post and gate would prevent unauthorised vehicles using the verges to by-pass the central bollard. The existing barbed wire fencing on south side of lane would be repaired as part of the application and the existing 3m wide tarmaced roadway would be refreshed and extended under the new pedestrian gate on the north side.

Property owners who currently enjoy vehicular access rights would be offered controls to operate the proposed bollard. The proposed barrier would not affect public footpath rights and bridleway access

Consultations have been undertaken with proprieted owners within Bretby Park and adjacent properties affected by the proposal.

Emergency services access has been discussed with the Fire Service which is satisfied with the proposal. The active bollard would lower into a 'fail-safe' retracted position in the event of power failure and, if necessary, this feature could be activated from Cedar Court Nursing Home where the power source for the proposal is located.

Email discussions, between the applicant, the Heritage Officer and the Rights of Way Officer, regarding the amendments to the previously refused design and the effect of the amended design would have on the public right of way have been included as part of the submission to show how the policy objections have been overcome prior to the submission of the planning application.

Planning History

A previous application for the same proposal was refused on conservation grounds as its design was seen as being inappropriate to the rural setting of the conservation area and the setting of the nearby Grade II* listed Bretby Hall and Grade II registered historic park.

Responses to Consultations

Following extensive pre-application discussions the Heritage Officer has raised no objection subject to the design of the metal gate being approved prior to installation.

The County Highways Authority has no objection subject to there being no adverse impact on the users of the public right of way.

The Rights of Way Officer has raised no objection to the proposal, as the details are all as expected following extensive pre-application discussions.

English Heritage has raised no objection and has advised the application should be determined in accordance with national and local policy guidance on the basis of our specialist conservation advice.

The British Horse Society Derbyshire has no objection provided adequate warning signage is installed and that motorists are made aware of the possible presence of horses using the bridleway.

The Bridleways and Byeways Group has no objection provided adequate signage is erected as horses could be startled by the moving bollard.

Bretby Parish Council has raised the following objections:

- The lane is a thoroughfare and access has not been denied in living memory and the gates have not been closed in 34 years.
- There are no acceptable turning places on the lane – reversing down the lane would be dangerous.
- Adequately lighting the bollard in such a dark location would result in light pollution.
- Traffic proposals are not in keeping with the area and the listed building.
- Confirmation that all residents have been notified of the proposal is required. Ownership of the lane is uncertain but it is thought there are many.
- Weekly refuse collections would be hindered by the proposal.
- There is already a clutter of existing signs and boards in the vicinity and more would be added if this application were granted.
- Is the proposal acceptable for a bridleway and has the views of the Rights of Way Officer been sought?

Responses to Publicity

5 letters of objection from 6 neighbours have been received covering the following:

- According to deed documents Bretby Park is a private thoroughfare, which is understood to mean a route through in both directions to and from the highway without let or hindrance.
- Access to properties is as a result of a 1922 agreement for un-interrupted passage, conditional on the drive being kept in reasonable repair.
- Rights of way extends to anyone who legally has need of access i.e. tradesmen, staff, residents, visitors, emergency and refuse vehicles.
- Objection is not based on style of bollards but that they prevent legal access and are detrimental to sites beneficial rights.
- Stopping your car to use the control is unsafe, especially for lone females on dark nights.
- Bollards will cause unnecessary hindrance and delay to emergency vehicles.
- Fly tipping is a rare occurrence and installation of a bollard would not be a deterrent.
- Bretby Hall, Carnarvon Court and Park Row have security cameras and signs stating road is private therefore there is no reason for the traffic control bollard.

- If a check was done, it is believed that very few unauthorised vehicles would be found using the road from Cedar Court to Bretby Village because of its poor state of repair.
- Bollards will not prevent speeding vehicles from A511 to the parkland.

Development Plan Policies

The relevant policies are:

RSS8: Policy 31

Joint Structure Plan: N/A

Local Plan: EV12, EV13, EV15

Planning Considerations

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

- The impact of the proposal on the setting of the Grade II* listed Bretby Hall, the Grade II registered historic park and the Bretby Conservation Area.
- The impact of the proposal on Public Bridleway No 9 (Bretby).

Planning Assessment

The applicant carried out extensive pre-application discussions with the Council's Heritage Officer and Rights of Way Officer following the refusal of a previous application.

The subsequent design and supporting documentation is well thought out and the amended scheme is in keeping with the setting in which it is located.

The proposal would therefore not have an adverse effect on the setting of the Grade II* listed Bretby Hall, the Grade II registered Bretby Historic Park, the Bretby Conservation Area or the Public Bridleway No. 9 (Bretby).

Issues regarding legal rights of way and other private rights are not material to the planning decision.

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 precise design of the metal gate shall be agreed with the Local Planning Authority prior to installation.

Reason: The submitted details show a design suited to timber construction and a different design will be necessary with the use of metal.

Item **1.6**

Reg. No. **9/2008/1077/B**

Applicant:

Gateway Developments LTD
70 Friargate
Derby
DE1 1FP

Agent:

Mr Martin Lupton
Matthew Montague Architect
70 Friar Gate
Derby
DE1 1FP

Proposal: **The variation of condition 13 of planning permission
9/2007/0010/f for the retention of fascia boards at
Broadlands Sutton Lane Etwall Derby**

Ward: **Etwall**

Valid Date: **27/10/2008**

Reason for committee determination

Councillor Lemmon has requested that the application be brought to Committee as local concern has been expressed about a particular issue.

Site Description

The site contains 7 newly constructed dwellings; it is served via an access from Sutton Lane. The site is surrounded by dwellings with the exception of the houses on the north boundary that look out over the countryside. Some of the houses are now occupied.

Proposal

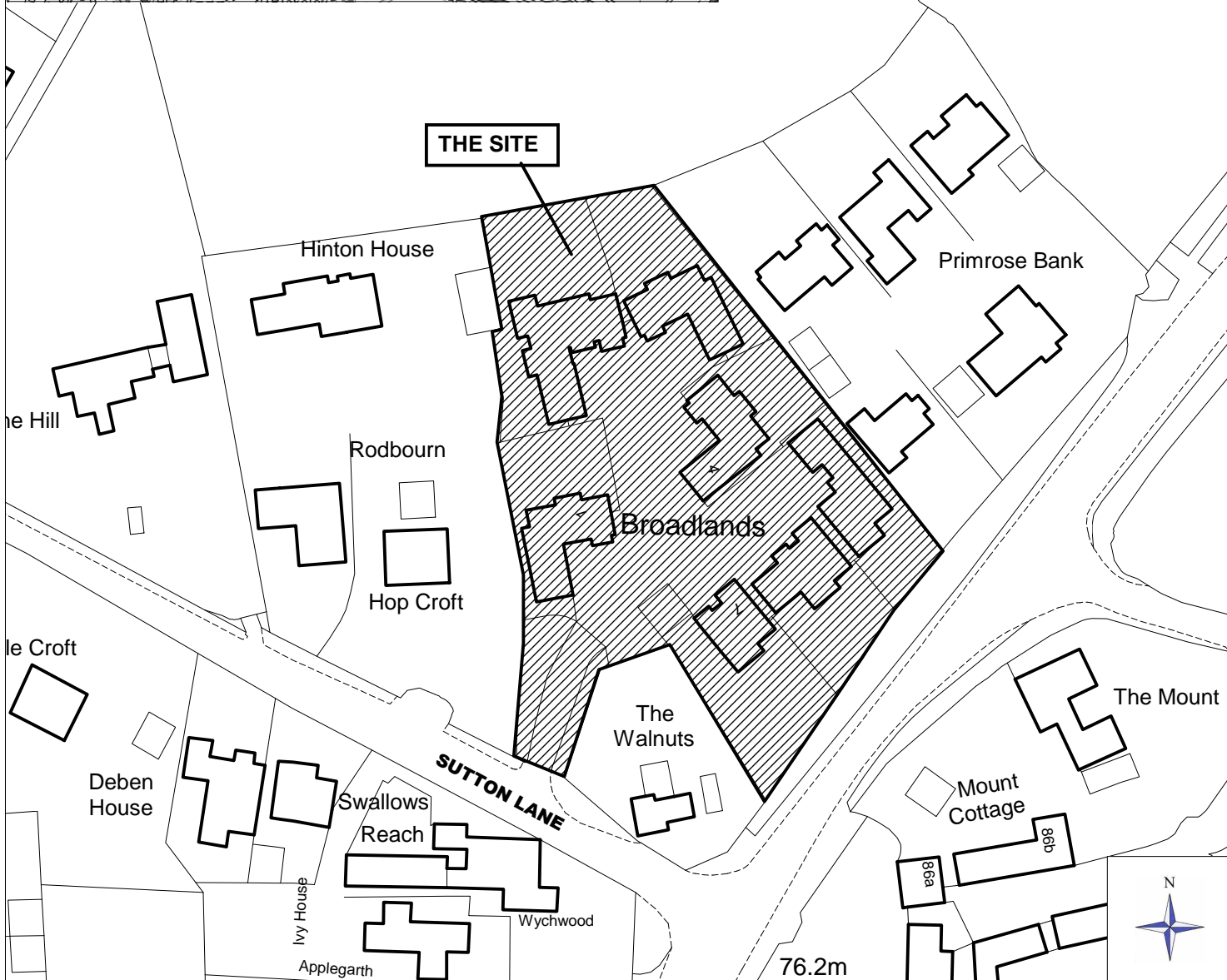
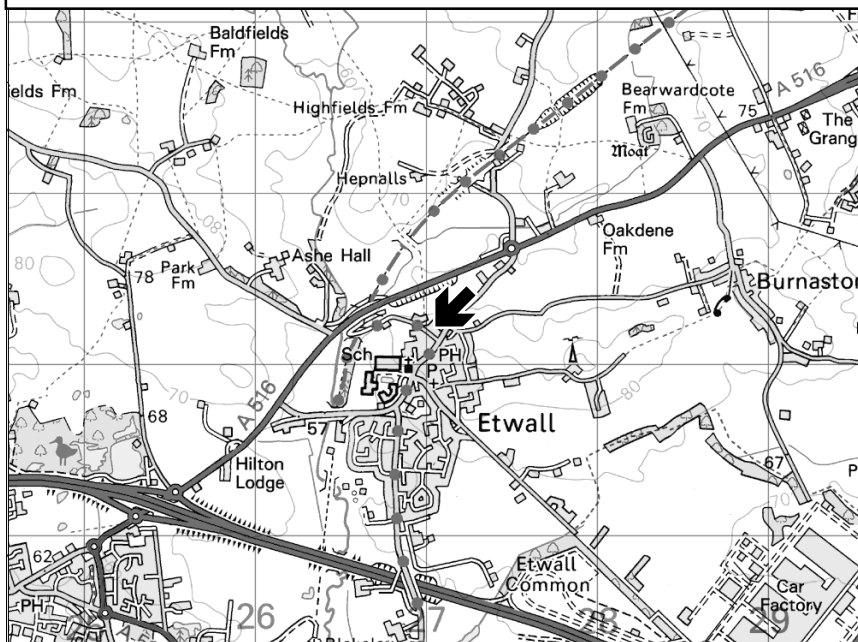
The current application seeks to retain the fascia boards where the planning permission permitted exposed rafter feet at the eaves.

Applicants' supporting information

None

Planning History

Permission was first granted in 2006 for the erection of seven dwellings on the site of the dwellings known as Broadlands and Pandora subject to numerous conditions. A subsequent application in 2007 sought to change the house types and Condition 13 of that permission requires the use of black plastic gutters and downpipes and that fascia boards should not be used. The latter planning permission was implemented.



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Responses to Consultations

Etwell Parish Council has no objection.

Responses to Publicity

6 letters have been received objecting the development. However two of the letters relate to an application for the retention of signs and flags on the site that are not the subject of this application, nor indeed any other application. The objections to the application can be summarised as follows:

- a) The site foreman advised that the fascia to the property would be corrected and it is expected that the development company would honour that commitment and the application to retain the fascia boards should be refused.
- b) Advertising on the site clearly shows the houses with no fascia boards – it is a golden rule of planning that conditions should be complied with.
- c) If this type of finish was needed then it should have formed part of the application when the house types were changed in 2007. The fascia boards are not sympathetic to the character of the area.
- d) The Council will be aware that the developers did not comply with other conditions attached to the planning permission.

Development Plan Policies

The relevant policies are:

RSS8:

Local Plan: Housing Policies 5 & 11

Planning Considerations

The main issues central to the determination of this application whether the removal of the fascia boards to the eaves and their replacement with exposed rafter feet is justified to secure compliance with Condition 13 of the planning permission 9/2007/0908/B bearing in mind the advice in Circular 11/95 and advice in PPG 18 – Enforcing Planning Control and the material impact of the change on the character and appearance of the site and the wider area.

Planning Assessment

The permission was subject to a condition (among others) that stated:

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

The most important element of this condition has been achieved in the use of black rainwater goods. However, the reason for the application is to regularise the development with regard to the remainder of the condition.

The reason for the condition is to ensure that the eaves are treated in a manner that reflects the usual South Derbyshire design style that is found over most of the District and be in keeping with the adjacent Etwell Conservation area. Normally this would be

capable of justification at appeal. However, there are two issues in this particular site that require consideration of the alternative approach that the applicant has taken.

The first is that the majority of the dwellings in close proximity to the site have prominent white fascia and barge boards at their eaves and verges; this will be illustrated in the photographs displayed at the meeting. This includes listed buildings that form part of the setting of the site when approaching the village from Derby.

The second is that the approved plans for the development show that the gables would be clad with barge boards and eaves would have exposed rafter feet. The permission was therefore granted with condition 13 to secure this design. The current application seeks to retain the fascia boards on the eaves of the dwellings.

The question then is whether the enforcement of the remaining part of the condition would be successful should this application be refused.

It is considered that the most important element of the condition has been achieved. It is a fact that the majority of dwellings, including listed buildings, in the vicinity of the site have white fascia boards on their eaves and verges. Thus the context of the site, from the wider area, is different to what is normally found in a South Derbyshire village. Requiring the removal of the fascia boards at the eaves and exposing the rafter feet would be difficult to justify to an inspector. The photographs provide compelling evidence of this.

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.

Item **1.7**

Reg. No. **9/2008/1090/NO**

Applicant:

Mr David Cash
Hanging Bridge
Mayfield road
Ashbourne
Derbyshire
DE6 2BN

Agent:

Mr Richard Foxley
Acorus Rural Property Services
Woodthorpe
Wolverhampton
West Midlands
WV6 8TQ

Proposal: **Erection of agricultural building at Land to the south of
Common Lane Sutton-on-the-Hill**

Ward: **North West**

Valid Date: **31/10/2008**

Reason for committee determination

Councillor Bale has requested that the application comes before the committee as local concern has been expressed about a particular issue.

This is one of three applications submitted by the applicant on the site. Each is supported by the same information and each has attracted the same number of objections to it. Accordingly this report relates to all the applications but each will have its own individual recommendation.

Site Description

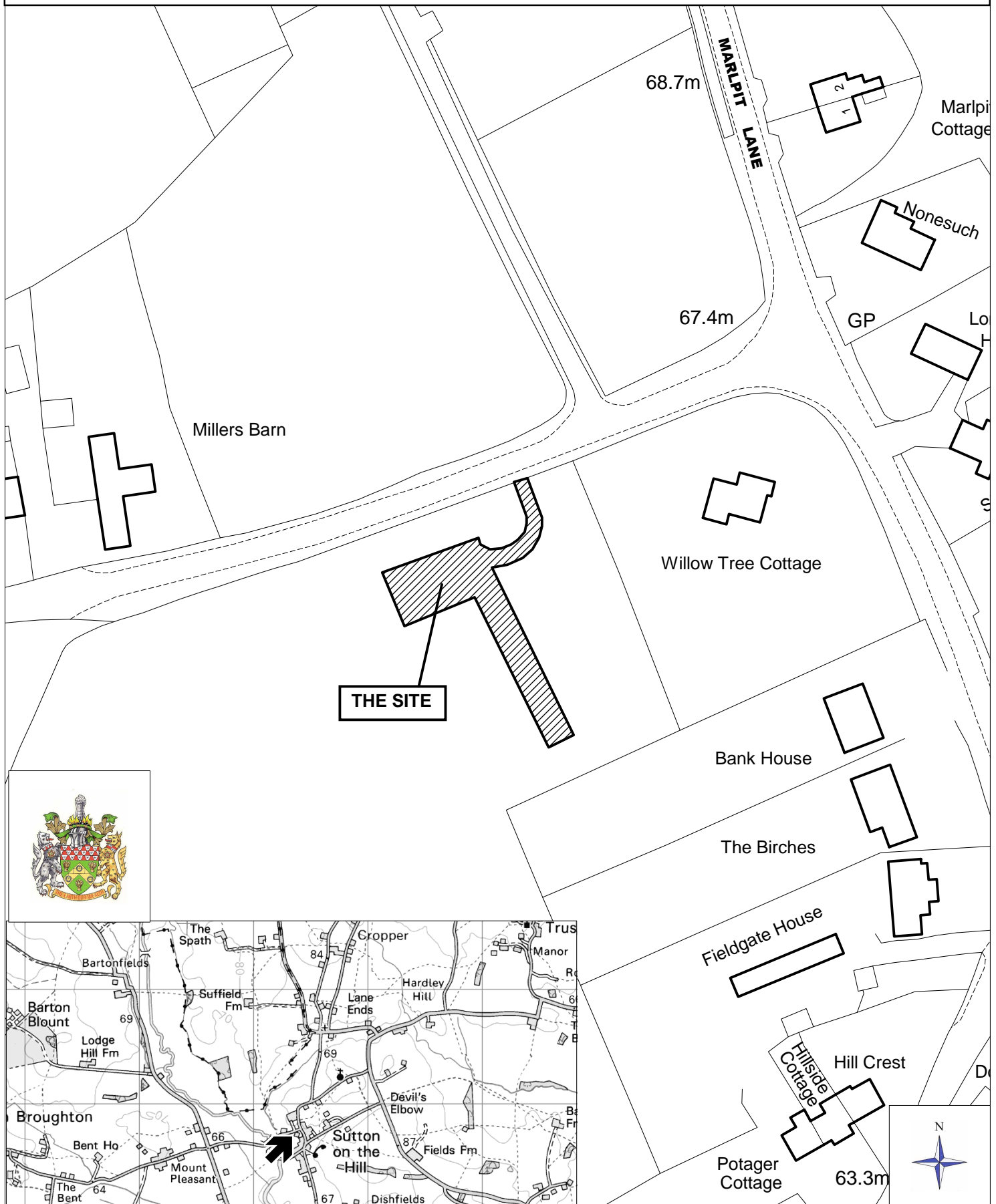
The application site is an area of raised ground above the road level from Common Lane. It is enclosed by hedges of varying heights to the four boundaries. The proposed access road and buildings are some 45 metres from the nearest dwelling, Willow Tree Cottage. Millers Barn lies at a lower level some 55 metres to the northwest of the site. The buildings are 95 metres from the rear of The Mill, a Grade II listed building.

At the highest part of the site is an area of disturbed ground that may be the remains of a medieval farmhouse known as the Demesne. The access to the site would be from Common Lane via a stoned drive that would rise from the level of Common Lane up into the site and cross the area of the possible remains.

Proposal

The development comprises the formation of the access track, the agricultural building and two glasshouses to be constructed in 2 phases. The applicant has submitted

**9/2008/1090/NO, 1091/NO & 1092/NO - Land to South of Common Lane,
Sutton on the Hill**



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details of the proposed construction of the track that would involve the stripping of topsoil to a depth of 0.15m and the importation of hardcore to the same depth.

Phase 1 (9/2008/1090) would comprise the agricultural building and the access. The building would measure 18.4m x 9.2m with an eaves height of 3.5m and a ridge height of 5.01m. The suggested colours for the cladding of the building would be fibre cement roof sheets with laurel green profile sheets to the walls. Phase 2 (9/2008/1091) would be the erection of the first of the glasshouses. It would measure 24.4m x 9.6m, the ridge height would be 4m. Phase 3 (9/2008/1092) is the remaining glasshouse which would be two bays of 24.4m x 6.4m with and same ridge height as Phase 2. This would give an overall dimension for the glasshouse of 22.74m x 24.39m or 554m².

There would be no heating in the main glasshouse, other than the propagation room within the glasshouse. It would have a watering system and an electronic ventilation system to open and close the rooflights. When the rooflights are open the height of the building would be higher than the main ridge level. No internal or external lighting is proposed as part of the application.

Applicants' supporting information

The applicant runs an organic vegetable supply business that currently sources products from numerous organic growers in the east of England. The applicant wishes to develop a site to grow his own produce for sale through the Internet and via farmers' markets locally. Crops would be started in the glasshouse in a heated propagation area, where appropriate, and would then be grown-on either in the main glasshouse area or on the remaining land in the control of the applicant. The intention would be to grow the majority of the produce sold by the current company locally to reduce the need to transport produce to the area. The applicant states that there would be no farm gate sales or sales direct to the public from the site.

The applicants have identified relevant local and national planning policy and consider that the development is generally supported by that policy that encourages the rural economy. The intention is to produce high quality organic produce that would provide employment for one person and part-time employment others. The design of the buildings is typical of many agricultural businesses and is of a scale and character in keeping with a landholding of this size.

There is not considered to be any significant impact on the local landscape and the applicants would be happy to discuss implementing an appropriate landscaping scheme.

In terms of the operation of the site, the applicant acknowledges that until the buildings are erected on the site, the business would continue to operate from his existing site. Once the agricultural building is erected with the Phase 2 glasshouse, all business operations would transfer to the Sutton site. Pending the first crops (which it is understood has already been planted at the site) produce would continue to be imported to enable the business to continue. This involves deliveries on 4 days per week involving one vehicle; as would be the case when the produce is produced at the site. In terms of low value crops such as carrots and potatoes, these are sourced from a producer in Mansfield and arrive in 500KG loads (250kg Potatoes and 250kg carrots) every 10 – 14 days and this would not change as a result of the development. The cardboard boxes used to distribute the produce to customers are produced in

Derbyshire and it is a requirement of the organic produce licence that these boxes are reused.

The applicant has produced information about the level of produce currently distributed by his business and it totals several 1000 kilograms. As a comparison, in the past year to September he distributed some 1337 Pak-choi heads – his application states that intended to grow some 1000 such plants. A full list of the crops that are distributed by the company is available for inspection on the files.

The applicant worked as an organic produce lecturer at Derbyshire Agricultural College for over 15 years, which gives him vast experience in the growing of such crops. He has run his "Organic Pumpkin" business for over 6 successful years now and having worked closely with his suppliers, considers the proposal will have significant benefits to his business, both financially and on a produce quality level.

The applicant also takes advice from two organic produce consultants who would continue to offer consultancy as the business becomes established on the application site should permission be granted.

The applicants contend that the visibility at the access is sufficient to cater for the level of traffic that is proposed.

Planning History

There is no recent planning history for the land. This site is not identified in any register as one with archaeological interest but it is acknowledged that the field may contain archaeological remains.

Responses to Consultations

Sutton on the Hill Parish Meeting objects to the applications for the following reasons (following a public meeting attended local community):

- a) The development would be of a size and scale completely out of keeping with the local village and the past use of the land and would have a significant impact on the many dwellings that immediately surround the proposed development. The buildings are tall and this would be added to because of the height of the ground above the road that increases the impact on local residents. There are other locations for this type of production in South Derbyshire some currently vacant for example in the Melbourne area that area is more suited to horticultural rather than the Sutton area that is more farming orientated.
- b) It is considered that there are many anomalies in the application in terms of the level of employment; the lack of lighting when it is clear that packing would need to take place in the winter months when light is short; the access will clearly require alteration when the applicants consider it adequate.
- c) The development would adversely affect the setting of the Grade II Listed Mill building.
- d) No environment – noise, visual, light impacts have been undertaken; traffic from the site and from delivery of products when the site is short of goods to deliver would be significant; nor has financial assessment of the project been undertaken.
- e) No archaeological study has been undertaken as the site is part of the old village of Sutton.

- f) There are no proposals to mitigate the impact of the development in the form of landscaping.
- g) There is no room to expand the site.
- h) The community wonders what is to happen to waste generated by the development, both in the form of packaging and vegetable material.
- i) There is concern that vegetables will continue to be imported by the business if supplies are short from the site. The agricultural building is more likely to be used for the packaging of produce and is a more industrial use of the land.
- j) If the development were permitted, then strong conditions are required to secure landscaping of the site and minimising the environmental impacts of the proposal.

The County Highway Authority comments will be reported at the meeting.

The County Development Control Archaeologist has commented that the site may have been the site of a substantial medieval or early post-medieval building shown as Demesne Farm on a map of 1671. The map only provides a schematic view of the village but indicates that the building to have been at least in this vicinity. The proposed buildings would stand to the west of the area where the building may have stood with the access track passing through that area. However, the archaeologist notes that the disturbed area could easily have been the result of previous tipping operations by a farmer. The Archaeologist has noted the works on the site and considers that if any remains were present, then the works would be unlikely to affect the bulk of any remains. Accordingly it is recommended that a watching brief be prepared to secure the presence of a qualified archaeologist at the site whilst excavations are undertaken. The Development Control Archaeologist would be willing to prepare a specification for written scheme of investigation (WSI) should planning permission be granted.

The Environmental Protection Manager has no objection to any of the applications but recommends that a condition be imposed to ensure that no livestock occupies the agricultural building on the site as it is close to residential dwellings.

Responses to Publicity

A total of 10 letters have been received objecting to each application, each makes the same points about the applications. The Parish Meeting comments above cover many of the objections made by residents and the objections below are a summary of those made in addition to the Parish Meeting:

- a) Extracts from the history of Sutton Manor have been submitted. It is contended that the lack of an appropriate archaeological survey makes the development contrary to Environment Policy 14 and PPG 15.
- b) The land forms part of an important open space within the settlement that should be protected under Environment Policy 8 of the adopted Local Plan.
- c) Dwellings on Brook Lane and Marlpit Lane surround the site and the proposed buildings pay no respect to those dwellings; moving them further south away from the road would increase impact on the dwellings on Brook Lane.
- d) The business is not economically viable. If the project were unsuccessful, then the applicant or the person following him would look to get building permission on the land. Otherwise the site could become derelict unless there is a condition requiring the removal of the buildings should the venture fail.

- e) It is inevitable that in the first year goods and products would be imported to the site and the barn would be used as a base for the existing business. This represents a change of use of the land from agricultural to warehousing and packing this is not agricultural development. Its presence in the countryside is not justified and is therefore contrary to Environment Policy 1 of the adopted Local Plan in that it would be a conspicuous development in a village setting. This would make the development contrary to Environment Policy 5 of the adopted plan.
- f) Access and parking provision is inadequate, mud would be transferred to the road. The development would result in significant extra traffic through the village impairing village safety. The access to the site is unsafe and its use by vans and lorries would create a danger to all but the best drivers; visibility is inadequate. Photographs have been submitted to illustrate these points.
- g) Drainage from the site would be onto adjacent land that already floods.
- h) There would be significant glare from the glasshouse and this would be detrimental to residential amenity.
- i) There are no offices or toilets shown – how would the business operate in compliance with health and safety legislation.
- j) This is intensive horticultural operation not a development on an agricultural site. The buildings do not need to be that big just to store implements and propagate a few salad vegetables.
- k) The development would be noisy from harvesting equipment and pumps.
- l) If there is security lighting then it should be infrared triggered so that it is not on all the time as the village has very little light pollution at the moment.
- m) The hours of operation should be limited to the normal working day.
- n) It is illegal to place such an industrial/agricultural project next to a listed building.
- o) There is no reference to the need for a dwelling on the site albeit the applicant told the community he wanted to live at the site.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policies 1, 5, 8 & 14.

Other Planning Guidance: PPS1 PPS 7 & PPG 15.

Planning Considerations

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

- Is the development agriculture?
- The need for the development in the countryside in the context of the Development Plan.
- The proposed method of operation
- The impact on the Listed Building
- The impact on neighbours
- Mitigation measures

Planning Assessment

The development falls within the definition of agriculture for the purposes of Section 336 of the Planning Act 1990,

‘...agriculture includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly...’

So the development needs to be considered in the light of this and the requirements of the Development Plan policy for agricultural development and development in rural areas. The proposed barn is designed in this business model to pack produce grown on the site and some other low yield produce imported from elsewhere. As such the packing element of the proposal is considered to be ancillary to the main use and offers a more sustainable solution. The proposal therefore can be defined as agriculture under Section 336.

Environment Policies 1 and 5 of the adopted Local Plan deal with development in the countryside and set criteria against which development should be judged. Environment Policy 1 states that development in the countryside is only acceptable if it is essential to a rural based activity. The development is in the countryside and as it falls within the definition of agriculture a countryside location is required. If needed in the countryside, then Environment Policy 5 sets detailed criteria for assessing the impact of agricultural development. In this case the development is sited in proximity to other buildings, albeit that they are unrelated to the development. The development should then be considered in terms of its impact on the landscape, or features of natural history or heritage interest.

The impact of the development on the wider landscape is limited. That is not to say that it would not be visible from the wider area or indeed from houses. From the east the landform and the houses screen the site until passing it. From the south the site would be visible from Brook Lane, a public footpath, on the ridge but would be viewed in the context of the farm behind it and the dwellings on Marlpit Lane. The site is screened from the north by higher ground. Approaching the site from the west the Mill building would substantially screen the site from view and again the houses on Marlpit Lane provide a backdrop to the buildings until one enters the village where the buildings would be apparent.

Thus, in terms of the wider landscape, the development would not be unduly prominent. The site would be visible from the dwellings that abut and look towards the site but there is a minimum separation distance is some 45 metres from the buildings to the rear of the dwellings on Marlpit Lane. This is considered sufficiently distant as to not directly affect the amenity of the occupiers of those dwelling. The impact on the listed building is considered separately.

There are no sites that are designated sites of natural history interest but the owners of the Mill have developed the area around the Mill in the interests of nature conservation.

Heritage issues are of major concern to objectors and the Parish Meeting. Notwithstanding the assertions about the presence of a medieval building, there is no formal designation of the site as a site containing archaeological remains. The County Development Control Archaeologist has visited the site and considers that something has happened on the site but without further investigation the nature of the disturbance

is not clear. It could be medieval remains or some much later excavations. He considers that the proposed works would not significantly affect the remains, as excavations would be fairly limited. However it is recommended that a condition be imposed on each application to ensure that the excavations are monitored and any remains recorded by a qualified archaeologist.

The other heritage issue is the impact of the buildings on the character and setting of The Mill that is a Grade II listed building. Whilst the land abuts the curtilage of The Mill, it would remain in agricultural use. The buildings would be some 95 metres from the Mill buildings and whilst there would be a change to the appearance of the land, the Design and Conservation Officer considers that the building works would not adversely affect their setting.

The concern about the business not succeeding is of local concern and to that end a condition is recommended to ensure that the buildings be removed and the land restored to pasture if the business were not successful.

The design and appearance of the buildings is considered acceptable. A condition is recommended for each application requiring that a landscaping scheme be submitted and then implemented to mitigate the 'close up' views of the site.

The final issue to consider is the environmental impacts on the immediate population. This is essentially a growing operation and noise from such operations is expected to be negligible. Should the applicant operate in a manner that is causing a nuisance, the Environmental Protection Manager has powers to deal with that situation under Environmental Protection legislation. It is not considered reasonable to restrict the hours of operation as agriculture has to operate as and when the seasons permit. This would not be a reasonable condition.

It is clearly possible for the existing business to transfer from Ashbourne to Sutton on the Hill without the implementation of the whole operation. The Local Planning Authority is advised that the first crop has been planted at the site but that is no guarantee that the business would be fully established on the site. It is considered that a condition should be imposed that requires the main agricultural building should not be occupied until the Phase 2 glasshouse has been erected and is available for operation. This is intended to ensure that the existing business is not established in isolation on the site without the requisite investment in Phase 2 and therefore does not become an independent packing works. This should fit in with the aspirations in the planning statement accompanying 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 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 building hereby permitted shall be occupied prior to the completion of the glasshouse permitted under planning application 9/2008/1091. Occupation shall be defined as the completion of the building works for the structure and the preparation of beds within the structure for planting as set out in the planning statement that accompanied this application.
Reason: The operation of the business envisaged in the planning application requires the erection of a glasshouse to facilitate the propagation and growing on of vegetables and fruit to provide crops for sale by the applicant. The Local Planning Authority wishes to ensure that the business can operate as an agricultural enterprise founded on the use of the application site in accordance with the terms of the planning application.
3. Unless otherwise agreed in writing by the Local Planning Authority, in the event that the building hereby permitted becomes vacant for a period in excess of 6 months, it and the access track shall be permanently removed from the land and the land shall be restored to pasture, its present use, in accordance with a scheme that shall have received the prior written approval of the Local Planning Authority.
Reason: In the interests of ensuring that the character and appearance of the countryside is maintained in the event that the business venture is not successful.
4. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall also 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.
5. 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.
6. No lights shall be installed at the site, in this case edged red and blue on the application drawings, unless and until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve amenity and prevent danger to road users.

7. The access track, illustrated on Drawing Number Wol/390/CAS/RF, shall be constructed only in accordance with those details unless the Local Planning Authority has given written authorisation to any variation.

Reason: In order to minimise the impact on the land of the access track in the interests of minimising impact on any archaeological remains.

8. No development shall take place, until the developer has secured the implementation of a programme of an archaeological watching brief on all development ground works to be carried out in accordance with a written scheme of investigation (WSI) submitted by the applicant and approved in writing by the Local Planning Authority. The scheme shall include on-site work and offsite work such as the analysis, publication and archiving of the results. All works shall be carried and completed as approved unless otherwise agreed in writing by the Local Planning Authority. A suitably qualified and experienced archaeological contractor shall undertake all archaeological work.

Reason: To enable items of archaeological interest to be recorded in the event that remains are found.

9. No work shall take place on the site until details of a scheme for the disposal of water from the roof of the building and the access and drive 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. Surface water from the access and drive shall not be permitted to flow onto the highway surface.

Reason: In the interests of flood protection.

10. The agricultural barn hereby permitted shall be utilised solely for the storage of machinery, produce and packing of produce (as set out in the planning statement and supplementary documents accompanying the application) and shall not be used for any other purpose including the keeping of livestock unless the Local Planning Authority has granted permission for an alternative use in response to a planning application made in that regard.

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

11. Any reasonable requirements of the CHA to be advised.

Reason: In the interests of highway safety.

Informatives:

Further to condition 8 above the Development Control Archaeologist at Shand House Dale Road South Darley Dale Near Matlock Derbyshire DE4 3RY (Tel 01629 580000 extn. 3358) should be contacted in the first instance for a written brief from which the Written Scheme of Investigation can be developed.

Item **1.8**

Reg. No. **9/2008/1091/NO**

Applicant:

Mr David Cash
Hanging Bank
Mayfield Road
Ashbourne
Derbyshire
DE6 2BN

Agent:

Mr Richard Foxley
Acorus Rural Property Services
Woodthorpe
Wergs Road
Wolverhampton
West Midlands
WV6 8TQ

Proposal: **The erection of glasshouse at Land to the south of
Common Lane Sutton-on-the-Hill**

Ward: **North West**

Valid Date: **31/10/2008**

For detail see report for 9/2008/1090 on this agenda.

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. In the event that the structure hereby permitted becomes vacant for a period in excess of 6 months, it shall be permanently removed from the land and the land shall be restored to pasture, its present use, in accordance with a scheme that shall have received the prior written approval of the Local Planning Authority.

Reason: In the interests of ensuring that the character and appearance of the countryside is maintained in the event that the business venture is not successful.
3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall also 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.

4. 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.

5. No lights shall be installed at the site, in this case edged red and blue on the application drawings, unless and until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve amenity and prevent danger to road users.

6. No development shall take place, until the developer has secured the implementation of a programme of an archaeological watching brief on all development ground works to be carried out in accordance with a written scheme of investigation (WSI) submitted by the applicant and approved in writing by the Local Planning Authority. The scheme shall include on-site work and offsite work such as the analysis, publication and archiving of the results. All works shall be carried and completed as approved unless otherwise agreed in writing by the Local Planning Authority. A suitably qualified and experienced archaeological contractor shall undertake all archaeological work.

Reason: To enable items of archaeological interest to be recorded in the event that remains are found.

7. No work shall take place on the site until details of a scheme for the disposal of water from the roof of the structure has 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 protection.

8. Any reasonable requirements of CHA to be advised

Reason: In the interests of highway safety.

Informatives:

Further to condition 8 above the Development Control Archaeologist at Shand House Dale Road South Darley Dale Near Matlock Derbyshire DE4 3RY (Tel 01629 580000 extn. 3358) should be contacted in the first instance for a written brief from which the Written Scheme of Investigation can be developed.

Item **1.9**

Reg. No. **9/2008/1092/NO**

Applicant:

Mr David Cash
Hanging Bank
Mayfield Road
Ashbourne
Derbyshire
DE6 2BN

Agent:

Mr Richard Foxley
Acorus Rural Property Services
Woodthorpe
Wergs Road
Wolverhampton
West Midlands
WV6 8TQ

Proposal: **The erection of glasshouse at Land to the south of
Common Lane Sutton-on-the-Hill**

Ward: **North West**

Valid Date: **31/10/2008**

For detail see report for 9/2008/1090 on this agenda.

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. In the event that the structure hereby permitted becomes vacant for a period in excess of 6 months, it shall be permanently removed from the land and the land shall be restored to pasture, its present use, in accordance with a scheme that shall have received the prior written approval of the Local Planning Authority.

Reason: In the interests of ensuring that the character and appearance of the countryside is maintained in the event that the business venture is not successful.
3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall also 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.
4. 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.

5. No lights shall be installed at the site, in this case edged red and blue on the application drawings, unless and until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve amenity and prevent danger to road users.

6. No development shall take place, until the developer has secured the implementation of a programme of an archaeological watching brief on all development ground works to be carried out in accordance with a written scheme of investigation (WSI) submitted by the applicant and approved in writing by the Local Planning Authority. The scheme shall include on-site work and offsite work such as the analysis, publication and archiving of the results. All works shall be carried and completed as approved unless otherwise agreed in writing by the Local Planning Authority. A suitably qualified and experienced archaeological contractor shall undertake all archaeological work.

Reason: To enable items of archaeological interest to be recorded in the event that remains are found.

7. No work shall take place on the site until details of a scheme for the disposal of water from the roof of the structure has 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 protection.

8. Any reasonable requirements of CHA to be advised

Reason: In the interests of highway safety.

Informatives:

Further to condition 8 above the Development Control Archaeologist at Shand House Dale Road South Darley Dale Near Matlock Derbyshire DE4 3RY (Tel 01629 580000 extn. 3358) should be contacted in the first instance for a written brief from which the Written Scheme of Investigation can be developed.

Item **2.1**

Reg. No. **9/2008/1057/FM**

Applicant:

Mr D Atkins
Oxford Street
Church Gresley
Swadlincote
Derbyshire
DE11 9NB

Agent:

Mr David Raybould
Newton Fallowell
Bretby Villa
Swadlincote
Derbyshire
DE11 0AJ

Proposal: **The erection of a detached dwelling at Land adjacent to
117 Oxford Street Church Gresley Swadlincote**

Ward: **Gresley**

Valid Date: **15/10/2008**

Reason for committee determination

The application is brought to Committee at the request of Councillor Southerd as there are special circumstances of the applicant which members should consider and the Committee should debate the issues in this case which are very finely balanced.

Site Description

The site is a rectangular corner plot within a densely developed residential area and comprises the garden of No. 115 Oxford Street. The site is situated to the side of the neighbouring property, No. 117 and extends along the boundary with Oxford Street towards Queen Street. The garden for No. 117 Oxford Street runs parallel to but behind the application site. The surrounding properties are varied in age and character but are predominantly two-storey.

Proposal

The application proposes the erection of a bungalow fronting onto Oxford Street with parking to the side retaining the existing parking area and two detached garages on site.

Applicants' supporting information

The Design and Access Statement includes the following:

- The site is situated in a long established residential area of properties of a mixture of ages and styles.
- Amongst the majority of two storey dwellings there are a significant number of single storey dwellings within the immediate locality.

9/2008/1057/FM - Land adjacent 117 Oxford Street, Church Gresley



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South Derbyshire District Council. LA 100019461. 2008

- The parcel of land, albeit adjacent to No. 117 Oxford Street, is not immediately adjacent to any other property, there being a vacant strip of land between the site and No. 43 Queen Street.
- It is considered that the land is suitable for residential development, and a pre-application enquiry of the Area Planning Officer, confirms that it would appear to meet current planning policies.
- The pre-application comments from the Planning Officer suggests that a two storey dwelling would be considered more appropriate for the site, but the owners require a single storey dwelling, both being elderly and not in the best of health, and as a result, need to stay in the immediate area to be close to family and friends.
- Due to the shape of the site a two-storey building situated to the Queen Street corner would appear very isolated from the neighbouring properties.
- As this is not particularly an infill plot in the traditional sense, being situated toward the corner of two streets and not between two other properties, it is suggested that consequently a single storey dwelling does not appear so out of place.
- A corner site, by its nature, is potentially a prominent location, however this particular site, we would suggest, is not a prominent corner site which would command some focal point of a building.
- The proposal has attempted to reflect the character and style of the surrounding properties with attention to detail in respect of a more vertical style of window with concrete sills and brick soldier arch lintels, a steep roof pitch and brick eaves.
- The boundaries to the site will be improved to maintain privacy to both the existing and proposed dwellings, i.e. a 2m high close boarded fence to be erected to the southern and eastern boundaries, whilst the existing hedge to Oxford Street will be largely retained but at a reduced height, approximately 1m above ground level.

Planning History

There is no relevant planning history.

Responses Consultations

The Highway Authority has no objection subject to the provision of parking for two vehicles for both the existing and proposed dwelling.

The Contaminated Land Officer has no objection subject to condition.

Responses to Publicity

The occupier of No. 117 has commented that there is an existing 5 ft fence surrounding the property that belongs to them and that they would not want to see this disturbed.

Development Plan Policies

The relevant policies are:

RSS8: Policy 2, 3 & 4

Local Plan: Housing Policy 4 & 11

Planning Considerations

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

- The principle of development.
- Design and appearance and impact on character of the area
- Impact on amenity

Planning Assessment

The site is a brownfield plot located within the urban area where residential development is acceptable in principle in line with Housing Policy 4 of the Local Plan.

The surrounding residential development is varied in character and age with a predominance of older terraced and semi-detached houses interspersed with more recent development of modern semi-detached, detached and town houses. Frontages are generally narrow with elongated gardens. Materials are a mix of brick and render. Whilst there are some single storey-dwellings within the surrounding area, more notably at 'The Holdings', a cul-de-sac of bungalows situated some 60m to the east of the site, the predominant character of the area is two-storey dwellings.

The rectangular site fronts onto Oxford Street and extends to the corner of Queen Street. The prominence of this corner plot is emphasised by the dense nature of the surrounding residential development and the two-storey dwellings that border the site. The bungalow would be 5.4m in height to the ridge and 2.5m to the eaves considerably lower than the height of the surrounding properties. The front elevation of the bungalow onto Oxford Street would be some 12.5m in length in comparison with the narrow frontages of the surrounding properties. The scale and mass of the bungalow would be out of scale and character with the surrounding development and therefore contrary to Housing Policy 4 of the Local Plan.

The proposal complies with the Council's minimum distance requirements to neighbouring properties and is acceptable in this regard.

The ownership of the boundary fencing is a civil matter.

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 surrounding area is predominantly characterised by densely developed two-storey housing that emphasises the prominence of this long rectangular corner plot fronting onto Oxford Street. Properties predominantly have narrow frontages with elongated rear gardens. The proposed bungalow by virtue of its scale, massing and location would be a visually prominent and incongruous feature in this location out of keeping with the scale and character of the area and therefore contrary to Saved Housing Policies 4 and 11 of the Adopted South Derbyshire Local Plan and the Council's Supplementary Planning Guidance 'Housing Design and Layout'.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/delegated
9/2008/0175	Woodville	Woodville	Dismissed	Committee
9/2008/0176	Etwall	Etwall	Allowed	Committee
9/2008/0371	Lullington	Seales	Allowed	Delegated
E/2006/0417	Swadlincote	Swadlincote	Dismissed	Delegated



Appeal Decision

Site visit made on 10 November 2008

by **P J Asquith** MA(Hons) MA MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
24 November 2008

Appeal Ref: APP/F1040/A/08/2081751

230-232 Burton Road, Woodville, Swadlincote, DE11 7JR

- 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 Shaun Clarke against the decision of South Derbyshire District Council.
- The application Ref. 9/2008/0175/MR, received by the Council on 11 February 2008, was refused by notice dated 13 May 2008.
- The development proposed is described as the demolition of 230 and 232 Burton Road, Woodville and the erection of a two storey/single storey residential apartment complex containing 12 one and two bed apartments with associated parking area.

Decision

1. I dismiss the appeal.

Procedural matters

2. It is clear that whilst the appeal application was as described above, during the Council's consideration of the scheme the application was amended to relate to the provision of 11 apartments and 17 parking spaces (drawing references 11A, 12A and 13A, dated April 2008, relate). It is on the basis of these amendments that I have considered this appeal. I have also taken into account the completed Unilateral Undertaking which, in the event of planning permission being granted and development taking place, would result in financial contributions towards local medical facilities and open space provision.

Main issues

3. I consider the main issues in this case to be the impact of the proposal, firstly, on the living conditions of adjoining residents and the future occupiers of the accommodation and, secondly, on highway safety and the free flow of traffic.

Reasons

Living conditions

4. The proposed scheme provides for an elongated, roughly 'L'-shaped building fronting onto Burton Road and running back into the site. I accept that careful attention to the detailed design and suitable boundary treatment could ensure protection of privacy for adjoining occupiers. However, this would necessitate the partial use of obscure glazing in the living rooms of apartments 3 and 6, in the kitchen area of apartment 6, the employment of high level rooflights for apartments 8 – 11 and high level windows in the north-western elevation of

apartments 2 and 5. The development would have its principal parking and turning area towards the bottom of the site. This is backed onto by the relatively short private rear garden of No. 1 Field View. This is a dwelling in a small modern cul de sac development, the house itself being only be some 5m at its closest from this parking area, where eight parking spaces would almost about the common boundary. Access to this parking area would be via a driveway, alongside which would be further parking spaces, the drive passing adjacent to the boundary with the detached house of No. 228 Burton Road, the dwelling itself being close to the common boundary.

5. I have no reason to query that in this part of Woodville the amount of parking provision for the proposal is appropriate. However, given the relationship of these neighbouring dwellings, in my judgement this level of parking and the toing and froing and manoeuvring of vehicles, with attendant noise and fumes, would seriously disturb and detract from the living conditions of their occupiers. The fact that the proposed parking spaces would be unallocated could result in additional manoeuvring when residents/visitors were looking for parking spaces, thereby potentially exacerbating the disturbance I have identified.
6. Having regard to the living accommodation to be provided, the majority of the area surrounding the proposed apartments would be hard surfaced to provide parking and access, there would be minimal landscaping and no meaningful or useable private amenity space. I acknowledge that the apartments are of one or two bedrooms and are not aimed at providing family accommodation. The absence of individual private amenity space in such circumstances is therefore not critical. The Council's supplementary planning guidance *Housing Design and Layout*, produced following public consultation, indicates that in order to encourage an increase in the density of housing on development sites the Council will set no minimum level of required private amenity space provision. Nonetheless, this guidance goes on to state that for blocks of flats some level of amenity space will be expected to be provided for the use of residents.
7. Whilst refuse storage is provided in the scheme there would be little opportunity for activities such as the outside drying of clothes and sitting out. The rooms designated as studies in apartments 8 – 11 would have French windows opening onto a narrow passage-like area, in places no more than about 1m in depth and they are likely to be faced by tall fencing or walling along the boundary with No. 234 Burton Road. These same apartments would have their main living areas facing onto parking areas only about 2m from their windows. These factors, coupled with the need in certain of the dwelling units for high level windows and obscured glazing, as already detailed above, which would limit aspect, would result in a somewhat cramped and claustrophobic development providing a poor level of overall amenity for occupiers of some of the units. I consider the impact of the scheme for both existing and future residents is a manifestation of a proposal which is an over-development of the site. This would be contrary to the thrust of saved Housing Policy 11 of the South Derbyshire Local Plan (LP), which requires new housing developments to provide, amongst other matters, reasonable amenities in terms of light, air and privacy for both existing and new dwellings.

Highways

8. LP saved Transport Policy 6 indicates that new development that interferes with the free and safe flow of traffic will not be permitted and that proposals for development should incorporate adequate provision for access, manoeuvring and off-street servicing. It is clear that modifications to the proposed scheme were made in response to the concerns of the highway authority and that the width of the driveway close to Burton Road, visibility from it and the level of parking provision are not now matters at issue. I have no reason to disagree.
9. Refuse collection would need to take place from Burton Road, the A511, which is clearly a busy principal road, because of the absence of turning facilities within the site for collection lorries. This would necessitate a collection vehicle having to wait within the road which at this point is marked by a central solid white line to the appeal site side, restricting overtaking and parking. Such waiting may well already occur with the servicing of existing residential properties, but the development of additional dwellings would be likely to increase the length of time that a collection vehicle would need to park. However, to speed collection it is proposed that an integral bin store is located at the front of the site adjacent to the private drive. The likely length of time that would be taken for collection and the infrequency of its occurrence lead me to concur with the highway authority's conclusion that there are insufficient grounds in respect of highways issues for rejecting the proposal. Nevertheless, this situation would be less than ideal and, whilst it would not seriously compromise highway safety and the free flow of traffic, it lends some additional weight to my conclusion on the first issue that the present scheme is unacceptable.

P J Asquith

INSPECTOR



Appeal Decision

Site visit made on 10 November 2008

by **P J Asquith** MA(Hons) MA MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
24 November 2008

Appeal Ref: APP/F1040/A/08/2080292

Badger Farm, Willowpit Lane, Etwall, DE65 5FN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by John Bowler Ltd against the decision of South Derbyshire District Council.
- The application Ref. 9/2008/0176M, received by the Council on 13 February 2008, was refused by notice dated 10 June 2008.
- The development proposed is the demolition of the existing poultry unit and the erection of an egg packing station.

Decision

1. I allow the appeal, and grant planning permission for the demolition of the existing poultry unit and the erection of an egg packing station at Badger Farm, Willowpit Lane, Etwall, DE65 5FN in accordance with the terms of the application, Ref. 9/2008/0176M, received by the Council on 13 February 2008, and the plans submitted with it, subject to the following conditions:
 - 1) Details of the external appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that Order, no tank for the storage of oils, fuels or chemicals shall be erected unless it is sited on an impervious base and surrounded by impervious bund walls. The bunded compound shall be at least equivalent to the capacity of the tank plus 10%. All filling points, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage.

- 5) Notwithstanding the provisions of Schedule 2 Part 8 Classes A and B of the Town and Country Planning (General Permitted Development) Order 1995 the building hereby permitted shall not be extended or altered other than as permitted by this permission or as a result of the approval of reserved matters without the prior written approval of the local planning authority.
- 6) Notwithstanding the submitted plan JB/02, details of parking and turning facilities for goods vehicles shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the first use of the building hereby permitted and shall thereafter be maintained free from any impediment to their designated use.
- 7) The areas shown on the submitted plan JB/02 for the parking and manoeuvring of cars shall be laid out, surfaced and marked out prior to the first use of the building hereby permitted. Thereafter those areas shall be maintained free from any impediment to their designated use.

Main issue

2. I consider the main issue in this case is the impact of the proposal on the appearance and character of the locality having regard to planning policy that seeks the protection of the countryside.

Reasons

3. The application was in outline but with layout and means of access to be considered. The proposal envisages the replacement of two existing modern poultry sheds for free range egg production with a single egg packing station, together with associated parking. Saved Environment Policy 1 of the South Derbyshire Local Plan (LP) 1998 seeks to limit new development in the countryside to essential rural-based activities or that which is unavoidable in the countryside. This is reflective of general advice contained within Planning Policy Statement 7 *Sustainable Development in Rural Areas* that the countryside should be protected for its own sake. However, saved LP Employment Policy 1 is permissive of the expansion of business uses on or adjacent to their existing sites providing there would be no detriment to the character of the locality and residential amenity and they would not result in environmental or traffic problems.
4. The appellant company is a major national free range egg production franchise and for reasons of business expansion and logistics it wishes to establish its own egg packing facility that would be closer to the majority of its egg producers in the Midlands and Wales. This would replace the current need to transport eggs to Wiltshire for packing, reducing travel. It has long had offices at Etwall but these have been outgrown and the company's head office has recently been established in converted farm buildings adjacent to the present poultry sheds. I accept that the egg packing operation is one that does not in itself require a countryside location. Indeed, the Council has suggested that it is one that could be carried out on an employment site such as the nearby Hilton Business Park. The appellant states that only leasehold interests will be granted there and for periods that would not justify the substantial development costs of the proposed egg packing station; the appeal site owned

by the appellant is the only realistic site that is suitable and available. I therefore consider that in the circumstances of this case the present proposal appropriately should be considered against LP Employment Policy 1; there is an established business on the site and the present scheme would represent an expansion of that, with the prospect that it would create 20 jobs. Against this background I therefore turn to the consideration of the impact of the proposal.

5. The site is very close to the interchange junction of the A50 and the A516. It is along these principal roads that most goods vehicles to and from the site would be likely to travel. There are few residential properties close by and the Council accepts that the likely traffic and noise impacts that would arise from the operation are unlikely to be significant given its location and the existing road noise climate. I have seen no substantive evidence to contradict this assessment. The Council's principal concern is the likely visual impact of the scheme.
6. Whilst design of the building is not a matter for present consideration the proposed site plan shows a building measuring 60m x 35m, providing a structure measuring 2,100m². The Design and Access statement indicates a ridge height of some 9m. The building would be larger by some 372m² and taller than the present hen units and therefore its presence within the generally flat countryside would be more prominent. Nevertheless, I noted on my visit that there is considerable established field hedging and trees on adjacent farmland which, when in leaf, would provide significant screening from viewpoints round about. A large amount of tree planting within the appellant's land has already taken place and, although very immature, in the longer term this should also provide screening and filter views. The building would be seen by passing road users on the elevated A50 but the existing poultry units, office building and associated car parking already distinguishes this as a developed site.
7. Subject to control over the detailed design and materials of the proposed unit, the scheme would not represent a significantly more intrusive presence within this location and the appearance and character of the countryside would not be materially harmed. What additional impact it might have would in my view be outweighed by the sustainability and employment benefits claimed for the proposal. As such, I do not consider that the scheme would be counter to LP Employment Policy 1 or the thrust of Environment Policy 1 and, subject to the imposition of suitable conditions, is acceptable.
8. I have considered the conditions suggested by the Council (but with no reasons given for these suggestions) in the event of the appeal being allowed, and upon which the appellant has not commented. I shall impose normal conditions requiring the approval of reserved matters. In order to prevent pollution I shall also impose a condition regarding oil and fuel storage although conditions are unnecessary relating to foul and surface water drainage since these matters should be covered by other legislation. Because of the site's countryside location I agree that it would be appropriate to remove permitted development rights regarding extensions and alterations to the building and plant and machinery. I shall impose conditions requiring the provision of parking and turning facilities within the site, in the interests of highway safety. I have seen no specific evidence to suggest that the site might have suffered previous contamination and as such I do not consider that the suggested condition

requiring site investigation to be necessary. Detailed design should cover the matter of finished levels.

P J Asquith

INSPECTOR



Appeal Decision

Site visit made on 10 November 2008

by **P J Asquith** MA(Hons) MA MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
21 November 2008

Appeal Ref: APP/F1040/A/08/2085067

3 Council Houses, The Village, Lullington, DE12 8ED

- 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 Shaw against the decision of South Derbyshire District Council.
- The application Ref. 9/2008/0371/FH, dated 27 March 2008, was refused by notice dated 4 June 2008.
- The development proposed is a front single storey extension for wc and hall extension.

Decision

1. I allow the appeal, and grant planning permission for a front single storey extension for wc and hall extension at 3 Council Houses, The Village, Lullington, DE12 8ED in accordance with the terms of the application, Ref. 9/2008/0371/FH, dated 27 March 2008, and the plans submitted with it, 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 materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Main issues

2. The main issue in this case is the impact of the proposal on the appearance and character of the host property and the Lullington Conservation Area.

Reasons

3. The appeal property is one half of a pair of semi-detached houses dating from the mid 20th century. A similar pair of dwellings is adjacent. The property lies within the Lullington Conservation Area which encompasses most of the built form of the village.
4. The scheme would replace a simple porch canopy on timber brackets with a wider brick-built porch incorporating a repositioned downstairs toilet. I accept that there is a basic simplicity, underlying uniformity and rhythm to the two pairs of houses, each house retaining its porch canopy. Although the proposal would, to a degree, interrupt this rhythm, the frontages of the dwellings have been altered already through the insertion of differing forms of windows, those within the appeal property clearly not being originals. The pairs of houses are set back from the road, are slightly staggered and are flanked by dwellings of

differing forms and styles. As such, I do not consider the maintenance of simple uniformity is a crucial consideration in terms of the preservation of the character and appearance of this part of the conservation area.

5. The proposal is itself simple in form and of limited scale and projection. Providing the materials for its construction are carefully chosen to match the existing house, which can be ensured through the imposition of an appropriate condition, I consider that the scheme would not be harmful to the appearance and character of the property. Similarly, it would have a neutral impact on these attributes of the conservation area. The scheme would not therefore be contrary to the thrust of saved Environment Policy 12 of the South Derbyshire Local Plan, which seeks to protect the character and appearance of conservation areas.
6. Although I have noted and have sympathy with the personal circumstances of the appellant and his wish for a more convenient and commodious internal layout, these have not been determinative considerations in my conclusion that the proposal is acceptable.

P J Asquith

INSPECTOR



Appeal Decision

Inquiry held on 18 November 2008

Site visit made on 18 November 2008

by **R A Sexton** BSc(Hons) DipTP MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
1 December 2008

Appeal Ref: APP/F1040/C/08/2065445

44 Newhall Road, Swadlincote, Derbyshire DE11 0BD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mark Bailey against an enforcement notice issued by South Derbyshire District Council.
- The Council's reference is E/2006/417.
- The notice was issued on 3 January 2008.
- The breach of planning control as alleged in the notice is the unauthorised formation of a vehicular access onto Midland Road, Swadlincote, Derbyshire.
- The requirements of the notice are permanently close the unauthorised access by the erection of a means of enclosure not exceeding 1 metre in height which may include a pedestrian access not exceeding 1.2 metres in width.
- The period for compliance with the requirements is 30 days.
- The appeal is proceeding on the grounds set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.

Decision

1. I dismiss the appeal and uphold the enforcement notice.

Procedural Matters

2. All the evidence at the Inquiry was given on oath.
3. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered. I am therefore unable to consider the planning merits of the development and the appeal will be determined solely on legal grounds.

Application for costs

4. At the Inquiry the Council made an application for costs against the appellant. This application is the subject of a separate Decision.

Reasons

5. S171B(4)(b) of the Act provides that if within the appropriate 4 or 10-year period a Council has taken or "purported to take" enforcement action in respect of a breach of planning control by serving a defective notice which has, for example, had to be withdrawn, it has a further 4 years in which to issue a second or subsequent notice, provided always that the first notice was not already out of time and the matter did constitute a breach of planning control. On the facts before me that would appear to be the case here.

6. The Council issued an enforcement notice in 2007 in respect of the same development at the same address (Document 3) but subsequently withdrew the notice because the issue date had been omitted. It is clear from the accompanying letter however that the Council purported to take that action on or before 19 June 2007. The effect of this earlier enforcement notice is to 'stop the clock' on the development at issue, so that the relevant date would be 4 years back from the date of issue of the first notice. In this appeal, therefore, the relevant date for the 4 year period is 19 June 2003, calculated back from the date of the first enforcement notice.

The Appeal on Ground (d)

7. In appeals on ground (d) the onus of proof lies firmly on the appellant to show, on the balance of probability, that at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice; that is, in this case, that the vehicular access onto Midland Road had been substantially completed before 19 June 2003. The appellant has however fallen far short of discharging that burden. It has not even been demonstrated the access had been formed by 3 January 2004 – 4 years before the issue date of the current notice.
8. In essence, the appellant's case to the Inquiry was that the access had been created in June 2004. In support of that contention, 2 letters were supplied on the day of the Inquiry. Neither author however appeared at the Inquiry to support their evidence or respond to queries raised in connection with it. In which case, I am led to afford it very limited weight – the moreso because of the contradictory evidence from those who did appear.
9. In any event, the letter from Parkside Developments (Document 2), the firm that carried out work at the appeal property which included the formation of the access only puts the date it was carried out as June 2004 – consistent with the appellant's own recollection at the Inquiry. But, this is within the time limit for taking enforcement action. Thus, even on the appellant's own case the formation of a vehicular access was not immune from action by the Council.
10. Furthermore, I consider other, earlier evidence from the appellant not consistent with the version of events he related to the Inquiry. The appeal form submitted in connection with the *withdrawn* enforcement notice states under ground (a) that, "We were having the garden concreted anyway and decided to widen the gateway..." (Document 4). Yet, in connection with the present appeal, the information provided on ground (d) is that, "My late mother-in-law did this work a long time ago...". Those accounts appear inconsistent to me. In seeking clarification on the point, the appellant advised the most recent appeal had completed and submitted by his partner. But, at best, I find the evidence ambiguous.
11. I think it likely the access was formed more recently than June 2004. I do not place any weight on the aerial photographs from the Google Earth website since they cannot be reliably dated. Nor do I believe any sound estimate for the date of the works can be founded upon the extent of the weathering of the brick pillar alongside the access opening, since there are too many variables in such an assessment. I do however place a good deal of weight upon Mrs Richards's report of her telephone conversations with the appellant between 22

and 24 April 2008 when Mr Bailey stated that the works in question had been carried out, "About two years ago."

12. When I put the matter to the appellant he accepted Mrs Richards's report of their conversation was correct, but that what he had said had been inaccurate and only said 'off the top of his head'. That seems unlikely to me. The appellant had already submitted his appeal on 19 January 2008 and so would, at the least, have been aware of the importance of the timing of the development. I regard his explanation to the Inquiry as self serving.
13. Furthermore, Mr Hall gave evidence that the access was formed sometime in 2007. Mr Hall is well acquainted with the appeal site. He had lived there until 1987 and his mother resided there until her death in 2006. He also passes the site on a regular basis. His evidence was not challenged by the appellant and I see no reason to do so either.
14. As a result I have concluded on the balance of probability that the formation of the vehicular access occurred after 19 June 2003, possibly in 2006 but most likely in 2007. Accordingly the development is not immune from enforcement action and the appeal on ground (d) fails.
15. For the reasons given above I consider that the appeal should not succeed.

RA Sexton

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr M Bailey appeared and gave evidence on his own behalf

FOR THE LOCAL PLANNING AUTHORITY:

Ms J Tsoi	Solicitor, South Derbyshire District Council.
She called	
Mrs G Richards	Senior Enforcement Officer, South Derbyshire District Council.

INTERESTED PERSONS:

Mr C Hall	6 The Rise, Newhall, Swadlincote DE11 0RU
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DOCUMENTS

- 1 Letter from M Talbot dated 24/10/08, handed in by Mr Bailey at the Inquiry.
- 2 Letter from Parkside Developments dated 12/11/08, handed in by Mr Bailey at the Inquiry.
- 3 Copy of previous enforcement notice and accompanying letter dated 19 June 2007, provided by the Council.
- 4 Copy of Mrs Richards's Appendix GJR3.