

# **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).

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## **1. PLANNING APPLICATIONS**

**This section 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.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2007/0804/F	1.1	Overseal	Seales	1
9/2007/0986/F	1.2	Stanton-by-Bridge	Repton	11
9/2007/1464/F	1.3	Aston	Aston	14

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.**       **9/2007/0804/F**

**Applicant:**  
Mr S Calladine  
6, Park Road Rickmans Corner  
Overseal  
Derbyshire

**Agent:**  
Phillip Brown Associates  
74 Park Road  
Rugby  
CV21 2QX

**Proposal:**       **Extension of existing gypsy caravan site to accommodate 3 families with a total of 6 caravans including erection of 3 amenity blocks at Land at Park Road Overseal Swadlincote**

**Ward:**           **Seales**

**Valid Date:**    **09/07/2007**

**Reason for committee determination**

This report is brought to the committee at the request of Cllr Grant because local concern has been expressed about a particular issue.

**Site Description**

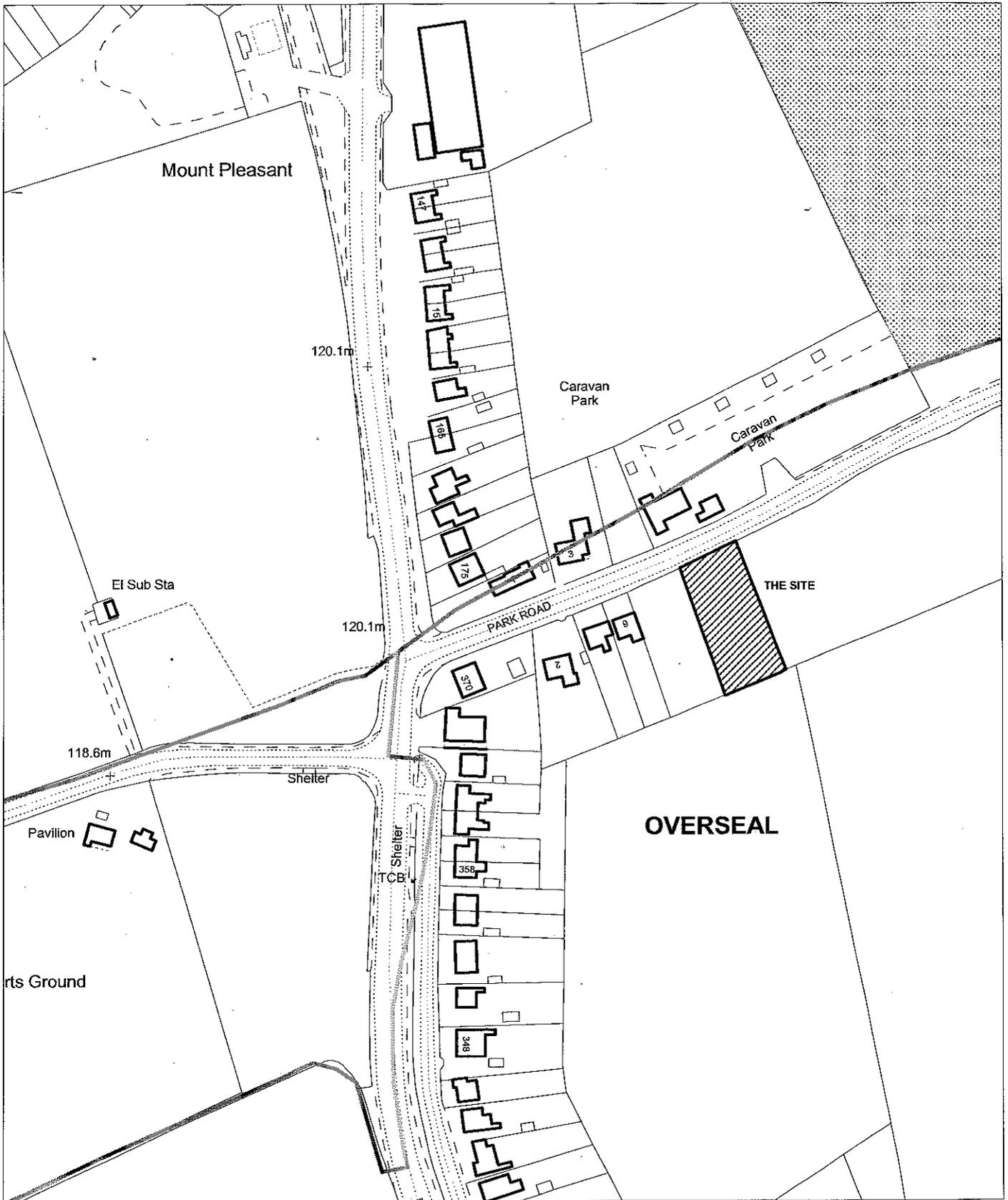
The application site comprises part of a larger field that is vacant and adjoins open countryside on two sides. The field has National Forest Planting to the South that has yet to reach maturity. To the Park Road frontage there is a thin hedge. Within the field there is no physical boundary defining the application site from the remainder.

To the north and west, adjacent land comprises the edges of ribbon development between Overseal and Linton Heath. The last plot in the stretch of ribbon development to the west is occupied as a gypsy site that was granted permission in 2004 and is separated from the application site by a wooden fence approximately a metre high. To the north (on the opposite side of Park Road) is a long established mobile home park that at one time was a gypsy site but is not restricted to occupation by travellers and it is understood that non-travellers now occupy some or all of the caravans.

Topographically, the field slopes down gently to the east towards the small pocket of industrial uses at Swains Park.

**Proposal**

The application relates to part of a larger area of land within the applicant's ownership. The application site is 20m across its frontage to Park Road and is almost 50m deep. It is generally flat and is clear of vegetation of any merit. It is proposed to use the land as three



 <p><b>South Derbyshire District Council</b> Civic Offices Civic Way Swadlincote DE11 0AH</p>	<p>9/2007/0804/F Land at Park Road Overseal Swadlincote</p>	<p>Date Plotted 25/1/2008</p>	<p>NORTH ↑</p>
	<p>Crown Copyright. All rights reserved. South Derbyshire District Council OS Licence No. LA 100019461. 2006</p>	<p>Plot centred at 435306 323874</p>	<p>Scale 1:2000</p>

gypsy pitches that gain access via the existing driveway on adjacent land. Each pitch would provide standing for up to two caravans. In addition each pitch would be provided with an amenity block 6.75m wide x 4m deep comprising kitchen, utility, bathroom and store.

### **Applicants' supporting information**

In support of the application the applicant's agent has submitted additional information that is summarised as follows:

The applicant's current permission does not allow other family members or friends to stay on the land and locally there is very little transit accommodation available (only two pitches at Lullington Crossroads). Unlike the previous application there is no need to break through the roadside hedge and there would be only a marginal effect on the character and appearance of the surrounding area. The site is within walking and cycling distance of both Overseal and Linton and is in a very sustainable location particularly when compared with the two public sites in the District that have recently been extended.

The proposal is compliant with Policy H15 in the Council's adopted Local Plan and with Government advice in Circular 01/2006. It lies in an area visited by gypsies and would help to meet the need for pitches in the locality.

### **Planning History**

There is no planning history relating to the application site itself. However on the adjoining land that is owned by the applicant, planning permission was granted in 2004 for use of land adjacent to number 6 Park Road (now known as the Conifers) as a caravan site for one gypsy family with up to two caravans. In 2006 planning permission was granted for an amenity block at The Conifers.

There has been complaints about The Conifers, specifically that conditions on the permission have not been complied with, namely that drainage details have not been agreed and the site has been occupied by more than two caravans that are visitors (Conditions 7 and 8 respectively). The investigation into these issues is ongoing.

### **Responses to Consultations**

Overseal Parish Council objects on the following grounds:

- There is no foul sewer.
- Neighbours' gardens are flooded because of the lack of proper drainage.
- The previous application was based on the medical needs of a child requiring regular hospital treatment, this does not appear to have occurred and there is no similar justification for expanding the site.
- The previous application was for two caravans; there are normally 5 or 6 caravans on the site.
- The application states that there are only two caravans at Lullington Crossroads whereas it is understood that there are 14.
- There are already two official travellers' sites in South Derbyshire and many other Districts have none. Provision is therefore already met.

- Occupants would be dependent on the car for access to daily facilities and an application in a nearby part of the village was refused for this reason.
- The development would increase traffic on a busy road used by HGV's serving the landfill site.

Severn Trent Water and the Environment Agency have no objection subject to conditions.

The Pollution Control Manager has no objections in principle to the proposal.

### **Responses to Publicity**

Six letters has been received. The following objections have been raised:

- There was no suggestion that the previous application that was put forward on medical need of one family member would result in an ever increasing gypsy site to meet the needs of visiting family
- There has been up to five caravans on the existing site on numerous occasions over the last three years that appeared to be living rather than visiting caravans. Since this application has been submitted the majority of these caravans have disappeared.
- Landscaping conditions on the previous application have not been met and the current site is bounded by fencing/wall/iron gated and security lighting. The current application contains similar proposals to assimilate the development into the surrounding countryside but this may not take place with the resulting increase in impact on visual amenity of the area
- There is no main sewer in the locality to take foul drainage. Further septic tanks draining into the ditches and wetlands cannot be good for the environment
- Development of the existing site resulted in the removal of underground land drainage pipes and their replacement with an impermeable slab resulting in persistent flooding of nearby gardens. Expansion of the site can only exacerbate this problem and result in loss of amenity for occupants of existing houses nearby whose gardens have become less usable.
- Increase in use of the access would cause issues of highway safety on a road heavily trafficked by HGV's
- Given the land ownership plan, how many more applications will come forward?
- The site layout with amenity blocks appears to be for permanent occupation rather than or visitors.
- Can the Planning Department give any assurances that the current application would not deviate from the submitted plans?
- Plans do not show the orientation of the amenity blocks
- Litter is thrown onto the agricultural land to the rear to the detriment of animal and safety.
- Staff are not available to speak to about the proposal

### **RSS/Structure/Local Plan policies**

The relevant policies are:

RSS8: N/A

Adopted Local Plan: Environment Policy 1, Housing Policy 15, Transport Policy 6.

## **National Guidance/Policy**

Circular 01/06 - Planning for Gypsy and Traveller Sites – states that the Government’s key objective for housing is to ensure that everyone has the opportunity of living in a decent home and it promotes the encouragement of Gypsies to provide their own sites. In summary, its intentions are: -

- To create and support sustainable, respectful and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education, health and welfare provision, and where there is mutual respect between all communities for the rights and responsibilities of each community and individual;
- To reduce the number of unauthorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this Circular;
- To increase significantly the number of Gypsy and Traveller sites in appropriate locations with planning permission in order to address under-provision;
- To recognise, protect and facilitate the traditional lifestyle of Gypsies and Travellers whilst respecting the interests of the settled community;
- To underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- To develop strategies to ensure that needs are dealt with fairly and to make provision for the resultant land and accommodation requirements;
- To ensure that DPD's include fair, realistic and inclusive policies to ensure identified need is dealt with fairly and effectively;
- To promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites; and
- To help or avoid Gypsies and Travellers becoming unintentionally homeless.

In addition to Circular 01/06 referred to above, there is a raft of Government advice in Legislation and good practice guidance with regard to Gypsies and Travellers including unauthorised encampments, homelessness and the provision of housing by way of the Housing Act 2004. The general thrust of which is that Local Authorities should assess the needs of all parts of the community and make appropriate provision.

## **Planning Considerations**

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

- Government advice for the provision of gypsy sites including:
  - The need for additional gypsy caravan pitches in the area
- Conformity with the Development Plan including:
  - The impact of the development on the character and appearance of the area
  - Access and highway safety

## **Planning Assessment**

### Government Policy

The application site lies in the countryside within which Planning Policy Statement 7 and Development Plan policies seek to strictly control new building away from settlements.

However, Circular 01/06 specifically seeks to increase the supply in the provision of sites for Gypsies and Travellers to address a national shortfall - including in rural areas.

Under the revised guidance, local authorities are required to rigorously assess the accommodation needs of Gypsies and Travellers and make site specific allocations for new public and private sites in development plans (South Derbyshire was included in those authorities that had no needs survey.) The current position is that Derbyshire County Council has been co-ordinating a county-wide survey. The survey is in the final stages of completion and is likely to be released in the near future, possibly later this month (February). In dealing with planning applications in the meantime, local planning authorities will necessarily have to rely upon existing criteria-based policies and estimate "need" on the basis of existing data that the Circular sets out as a checklist of information necessary to draw a conclusion.

The list includes incidents of unauthorised encampments, the status of existing authorised private sites, the number and outcomes of planning applications, the levels of occupancy on private and public sites and the twice yearly caravan counts undertaken on behalf of ODPM (now DCLG). The Circular states that local planning authorities will be expected to demonstrate that they have considered this information, where relevant, before any decision to refuse a planning application for a gypsy and traveller site and to provide it as part of any appeal documentation.

To summarise, therefore, the development or extension of gypsy sites in the countryside such as the current application is inappropriate unless, firstly, available data demonstrates that a need (i) for such accommodation exists which cannot be met on any existing sites, and secondly the proposal is acceptable in other planning respects (ii).

#### (i) Need

Whilst waiting for the publication of the Needs Survey, reliance is based on this Council's records for much of the information specified in the Circular.

In terms of planning applications over the past five years, this Council has granted permission for small private sites at Walton-on-Trent and the adjoining site to this application at Overseal. In addition extensions were granted at both existing public sites at Church Broughton and Lullington. There have also been two permissions granted on appeal at Linton and Linton Heath, one for two caravans (amended by application to one) and the other for three caravans.

Existing public sites at Church Broughton and Lullington continue to be generally fully occupied with turnover of plots being relatively rare. Both sites have recently undergone some refurbishment work and on 21 January the two transit pitches at Lullington were vacant and there were four permanent pitches available at Church Broughton that it is understood are likely to be let shortly.

There is a further private caravan site at Park Road, Overseal that was originally allowed as a gypsy caravan site (more than 25 years ago) but was unrestricted in terms of occupants and over the years it has become occupied by non-travellers. In planning terms there appears to be no reason that gypsies would be restricted from occupying the site if they wished to do so but it is currently the owner's choice to restrict gypsy occupation.

Caravan counts undertaken by this Council on behalf of the Government show that unauthorised encampments in South Derbyshire are skewed towards two areas in the District, namely the Hilton/Hatton areas in the north and Linton in the south. This could possibly be attributed to the fact that there are two public sites in the vicinity of these areas which might attract hopeful travellers. At the time of writing the available data for unauthorised encampments for the period June 2007 - October 07 is that there were 12 incidents involving in excess of 74 caravans (40 in one unauthorised encampment at Etwell). Some of the incidents were the same group of travellers moving from one unauthorised site to another.

In addition to the above, a report was commissioned from KGS in 2004 that sought to establish the welfare needs of Gypsies and Travellers who are already based in South Derbyshire. It identified that the travelling community was generally satisfied with the sites where interviews took place but it also established that the site at Park Road, Overseal is not available to the travelling community because the site owner had chosen to no longer let pitches to travellers. It also showed that the turnover at the well-established sites was very small because, once based in the area, its attractiveness, low crime rates and other factors make staying in South Derbyshire a priority. The respondents generally had no conflict with the resident community and the majority had been in their existing site in excess of one year, 35% having been in residence for over 5 years.

In conclusion on the issue of need, whilst there is no overwhelming pressure for the southern part of the District, there appears to be some degree of unmet demand in this part of the District evidenced by the same group moving between two sites in the locality of the application site.

#### (ii) Conformity with the Development Plan

Adopted Local Plan Housing Policy H15 forms the main basis for assessing the application. It contains six criteria that require:

- I. New gypsy sites be in an area already frequented by gypsies
- II. A satisfactory location in relation to other development
- III. That the site is acceptable in environmental terms
- IV. That the site is reasonably accessible to community services and facilities
- V. Sympathetic assimilation into the landscape
- VI. An acceptable vehicular and pedestrian access can be provided

In assessing the above criteria, it is clear that this is an area already frequented by gypsies evidenced by the number of public, private sites and unauthorised encampments.

As to neighbouring land uses, the site is bounded by an existing caravan site to the east and there is a caravan park opposite. It is therefore considered that the site is satisfactory in terms of its location in relation to other development and there are no environmental issues that would preclude development.

In terms of sustainability, the site lies around 1km from the closest shop. The closest village amenities lie in both Overseal and Linton, both also around a km away from the application site. A Post Office and primary school are in each of Overseal and Linton whilst medical and secondary school provision are yet further afield in Swadlincote. The Circular advises that rural settings for gypsy sites are acceptable in principle where they are not subject to special planning constraints. It goes on to advise local authorities to be realistic about the availability of alternatives to the car in accessing local services in rural

areas and that in some cases of untidy or derelict sites a well-planned traveller site can be seen as positively enhancing the environment. Given the overall scale of the proposal and the presence of some local facilities within cycling distance, it is considered that it would be difficult to sustain a refusal on the basis of accessibility to services.

In landscape terms, whilst the site lies within an area where countryside policies apply and it is open to the countryside on two sides, there is a significant amount of woodland planting to the rear of the site that would mitigate the impact of the development from the countryside. The ownership of additional land and the topography is such that appropriate landscaping to the western site boundary together with appropriate boundary treatment to the south could mitigate any remaining visual intrusion. It is difficult to determine how much of the existing hedgerow to Park Road would be lost in order to provide the visibility splay required it is possibly in the region of 15m. This would be required to be replanted along the back of the splay.

With regard to highway safety, since the previous application for The Conifers was approved, traffic speeds have altered and visibility required is reduced to 120m in an easterly direction as opposed to 215m originally requested. Given this is achievable, the County Highways Authority raises no objections subject to conditions.

With regard to drainage, there is no main available for this proposal and, at the request of the Environment Agency; the applicant has suggested a package treatment plant. This is acceptable in principle but the submitted details are currently inadequate to satisfy the Environment Agency and therefore the usual condition requiring agreement of the means of disposal of both surface water and foul water would be necessary. This would have the effect of preventing occupation of the new site prior to details being agreed and implemented.

### Conclusion

The previous application for The Conifers confers acceptance that the Calladine family are gypsies and as such an exception to the normal policies for the protection of the countryside may apply. Support for this application is found in Circular 01/06 which, amongst other things, seeks to increase significantly the number of gypsy and traveller sites and to promote more private gypsy and traveller site provision in appropriate locations. As set out above, the proposed development accords with the criteria for gypsy sites in Housing Policy H15 of the adopted Local Plan. There is some unmet need in the locality, the visual impact of this site can be reduced by landscaping and access to the site is acceptable. Therefore the issues central to the consideration of this application that are set out in the planning considerations section of this report are all satisfied and subject to conditions the proposal is considered acceptable.

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

### **Recommendation**

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

1. 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 does not authorise use of the land as a caravan site by any persons other than gypsies as defined in paragraph 15 of Government Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites).

Reason: To safeguard the site for occupation by gypsies.

3. No more than two caravans shall be stationed on each pitch at any time.

Reason: For the avoidance of doubt.

4. No caravan shall be stationed that is not capable of being legally towed on a public road.

Reason: To safeguard the visual amenity of the countryside in accordance with Environment Policy 1 of the adopted Local Plan.

5. No commercial activity or outside storage related to any trade or business shall take place on the site.

Reason: To protect the visual amenity of the locality.

6. No vehicle shall be parked or stored on the site which exceeds 3.5 tonnes unladen weight.

Reason: To protect the visual amenity of the locality.

7. Notwithstanding the submitted information no development approved by this permission shall take place on the site until details of a scheme for the conveyance of foul drainage to a private treatment plant has been submitted to and approved by the Local Planning Authority. No part of the development shall be brought into use until such treatment plant has been constructed.

Reason to prevent the pollution of the water environment.

8. The roof shall be covered in plain blue clay tiles and the walls constructed in red brick to match the colour and texture of those of the existing building.

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

9. Prior to the first use of the development hereby permitted, the land in advance of the sight lines shown on the submitted drawing number 2261 and received by the Local Planning Authority on 7 December 2007 shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level.

Reason: In the interests of highway safety.

10. In the first planting season following the laying out of the sightline in an easterly direction, a new hedgerow including appropriate hedgerow trees shall be planted behind the visibility sight line required under Condition 9 above in accordance with a planting and maintenance schedule which shall have received the prior written approval of the Local Planning Authority. The hedgerow shall be maintained in accordance with the approved maintenance schedule. Any minor repositioning of the amenity block closest to the northern site boundary as a result of the realignment of the hedgerow shall be first agreed in writing with the Local Planning Authority.

Reason: In the interest of the amenity and rural character of the area.

11. Prior to first occupation of the development hereby permitted access shall be provided with a minimum width of 3.2m and be constructed with 2m x 2m x 45° vehicular crossover and surfaced in a solid bound material for the first 5m into the site from the highway boundary.

Reason: In the interests of highway safety.

12. Any gates shall be set back a minimum of 10m from the highway boundary and designed so as to open inwards only.

Reason: In the interests of highway safety.

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

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

14. 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.

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

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

16. Prior to the first use of the development hereby permitted, parking and manoeuvring facilities shall be provided so as to accommodate six vehicles within the curtilage of the site, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter six parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site unless as may otherwise be approved in writing by the Local Planning Authority.

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

Informatives:

A discharge consent will be required from the Environment Agency and will not necessarily be granted. The applicant is advised to contact the Environment Agency National Water Quality Permitting Team for further information.

Information to satisfy condition 7:

The applicant will need to provide proposed details on how the plant will be maintained and where the effluent will be discharged to. If it is proposed to discharge the treated effluent from the package plant to a soakaway system, porosity tests must be carried out to the satisfaction of the local authority that suitable sub soil and adequate land area is available.

No part of the soakaway system should be connected to, or located within 10m of any land drain, surface water sewer, ditch, watercourse or other controlled waters, the formal consent of the Environment Agency will be required.

If it is proposed to discharge the treated effluent from the package plant to any land drain, surface water sewer, ditch, watercourse, or other controlled waters either directly or indirectly, the formal consent of the Environment Agency will be required.

The applicant is advised to contact the National Permitting Team for further information. The proposed development lies within a coal mining area. In the circumstances Applicants should take account of any coal mining related hazards to stability in their proposals. Developers must also seek permission from the Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at [www.coal.gov.uk](http://www.coal.gov.uk).

**Item**            **1.2**

**Reg. No.**        **9/2007/0986/F**

**Applicant:**  
Mr & Mrs Sread  
8, Brook End  
Repton  
Derbyshire  
DE65 6FN

**Agent:**  
B & E Design  
27 Derwent Avenue  
Borrowash  
Derbyshire  
DE72 3HZ

**Proposal:**        **The use of fishing ponds for fishing club and retention of storage container at Robin Wood Lakes Stanton-by-bridge Derbyshire**

**Ward:**            **Repton**

**Valid Date:**     **26/10/2007**

**Reason for committee determination**

Councillor Watson has requested that the application be brought before the Committee because there are unusual site circumstances that should be considered by the Committee.

**Site Description**

The site is a series of three ponds located in a valley bottom with arable land to the north and south and woodland to the east and west. The site access is from a track, which runs to the western side of the ponds and links to the road to Ingleby Toft.

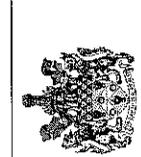
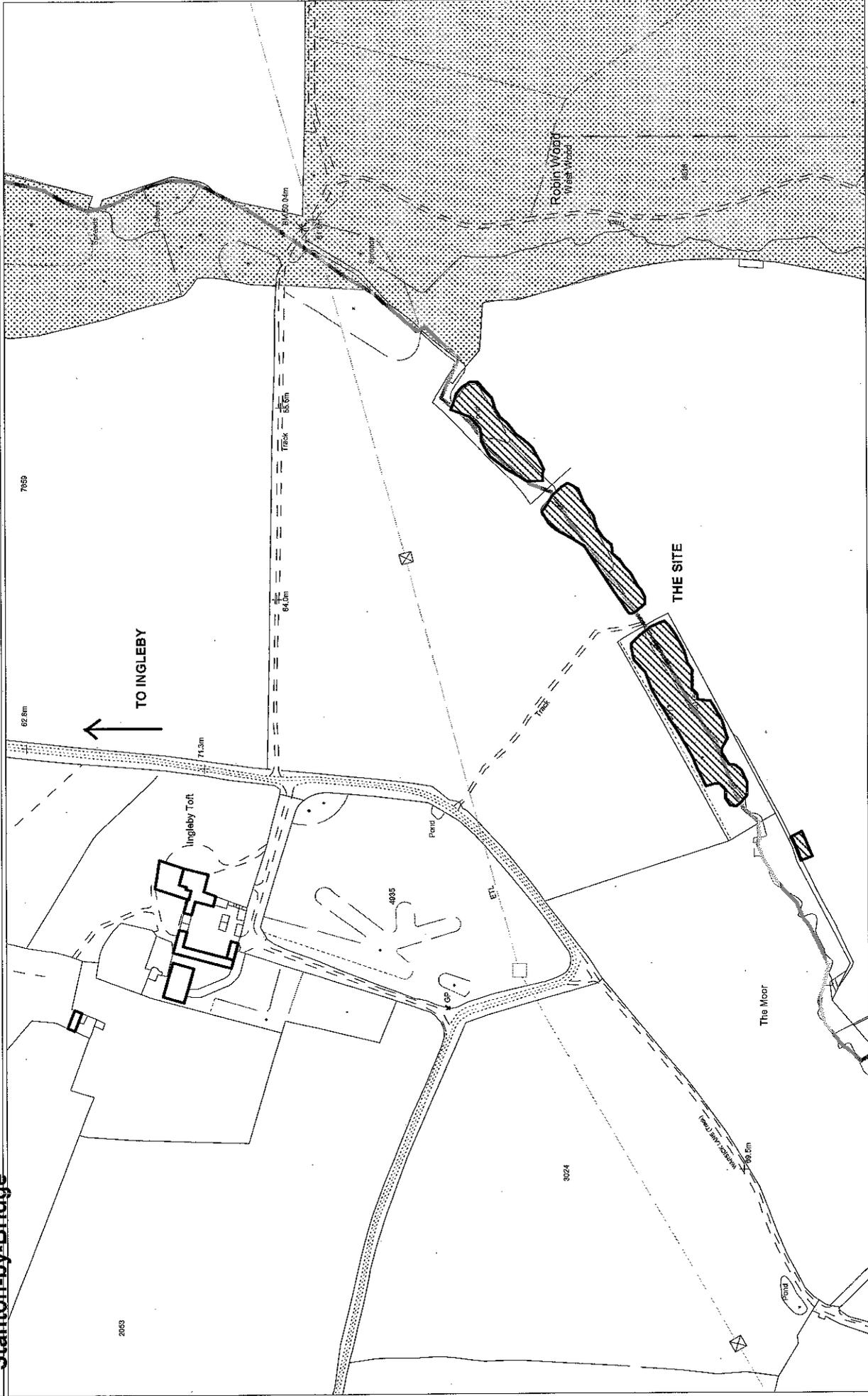
**Proposal**

The application is a retrospective submission for the use of the ponds for fishing (which includes an ancillary access track and parking area) and for the retention of a storage container. Access to the pegs for disabled anglers would be via an informal track adjoining the ponds.

**Applicants' supporting information**

The Applicant has submitted a design and access statement for the storage container stating that it is a temporary metal container and is used for the storage of tools in connection with the maintenance and improvement of the banks of the fishing ponds. It is sited immediately behind a tall hedgerow to minimise impact. Access to the building is via the existing access track and it is intended that the container will be accessible only to the able-bodied members of the club.

**9/2007/0986/F Robin Wood Lakes  
Stanton-by-Bridge**



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DISTRICT COUNCIL  
CIVIC OFFICES  
CIVIC WAY  
SWADLINCOTE DE11 0AH**

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## **Planning History**

This application has been submitted as a result of a complaint and at the request of the Senior Enforcement Officer.

## **Responses to Consultations**

The Environment Agency has no objections.

The Highway Authority has no objections but recommends a temporary consent for two years in order to assess the impact on highway conditions. They also require visibility sightlines to be provided and a scheme to be submitted and adhered to in connection with provision of the parking area.

## **Responses to Publicity**

No observations received.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Environment Policy 1, Recreation and Tourism Policy 1

## **Planning Considerations**

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

- the principle of the use,
- the impact on the countryside,
- impact on local amenity,
- access and parking provision and scale of the use.

## **Planning Assessment**

The site is located within the countryside where Environment Policy 1 requires development to be essential to a rural based activity, or unavoidable in the countryside and located so as to create as little impact as practicable. The ponds are already in existence and they are well screened by the landform and trees which adjoin the site. As such the use of the ponds for fishing is considered to be acceptable in principle subject to satisfying other more specific policy relating to its operation.

Recreation and Tourism Policy 1 states that recreation facilities will be permitted provided there is no disturbance to local amenity by virtue of noise or traffic generation, adequate provision is made for access and parking and they are of an appropriate scale and design and well integrated with their surroundings. The nearest dwelling is over 300m from the site and fishing is not a noisy activity. There will be some traffic generation but the level of traffic generated is unlikely to cause disturbance to amenity. The Highway Authority has requested that a temporary consent be granted in order to assess the impact of the use on highway conditions. A plan has been submitted indicating a parking area. This is in response to concerns raised over the visual impact of cars parking all around the ponds. Parking adjacent to the ponds would be limited to disabled users only and the location of the pegs for disabled users has been shown on the plan.

The storage container is dark green metal measuring 6m by 2.5m and 2.5m in height and has been sited adjacent to a hedge and therefore considered not unduly intrusive in its location. However, it is considered that to be consistent with the recommendation for temporary permission for the use of the ponds as set out below and to reflect the fact that metal containers tend to deteriorate with age, similarly the container should only be granted a temporary period.

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

## **Recommendation**

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

1. This permission shall be for a limited period only, expiring on 28th February 2010 on or before which date the use shall be discontinued, the storage container removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: To enable assessment of the impact of the use on highway safety and conditions.

2. Within two months of the date of this permission, the access shall be provided with visibility sightlines extending from a point 2.4m back from the carriageway edge, measured along the centreline of the access, to the extremities of the controlled land frontage abutting the highway in each direction in accordance with a scheme first submitted to and approved by the Local Planning Authority. The area forward of the sightlines shall be cleared and maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge. The access shall be constructed as a vehicular crossover, have a minimum width of 4.1m and be surfaced in a solid bound material for at least the first 5m into the site from the highway boundary.

Reason: In the interests of highway safety.

3. The car parking area shall be brought into use within 2 months of the date of this permission. The car parking area shall be laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Each car parking space shall have minimum dimensions of 2.5m x 5.0m and be provided with at least 6m manoeuvring space behind. Once provided the spaces shall be maintained free of any obstruction to their designated use throughout the life of the development.

Reason: To ensure that adequate parking is provided for the use.

4. Once the car parking area has been provided cars (with the exception of cars used by disabled fisherman which shall be parked adjacent to the pegs indicated on the plan dated 14th December 2007) shall not be parked around the lakes and shall be parked within the designated parking area.

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

**Item**            **1.3**

**Reg. No.**       **9/2007/1464/F**

**Applicant:**

Mr Matthew Lacey  
James William Limited  
Haresfield  
Moor Lane  
Derby  
DE72 2AG

**Agent:**

Mr Daniel Clulow  
Woore Watkins Ltd  
61  
Derby  
DE1 1DJ

**Proposal:**       **The erection of two dwellings at  
Haresfield Moor Lane Aston-on-Trent Derby**

**Ward:**           **Aston**

**Valid Date:**    **20/12/2007**

**Reason for committee determination**

The matter is referred to Committee because there is an objection from the Head of Finance and Property relating to a Council asset, the adjacent cemetery.

**Site Description**

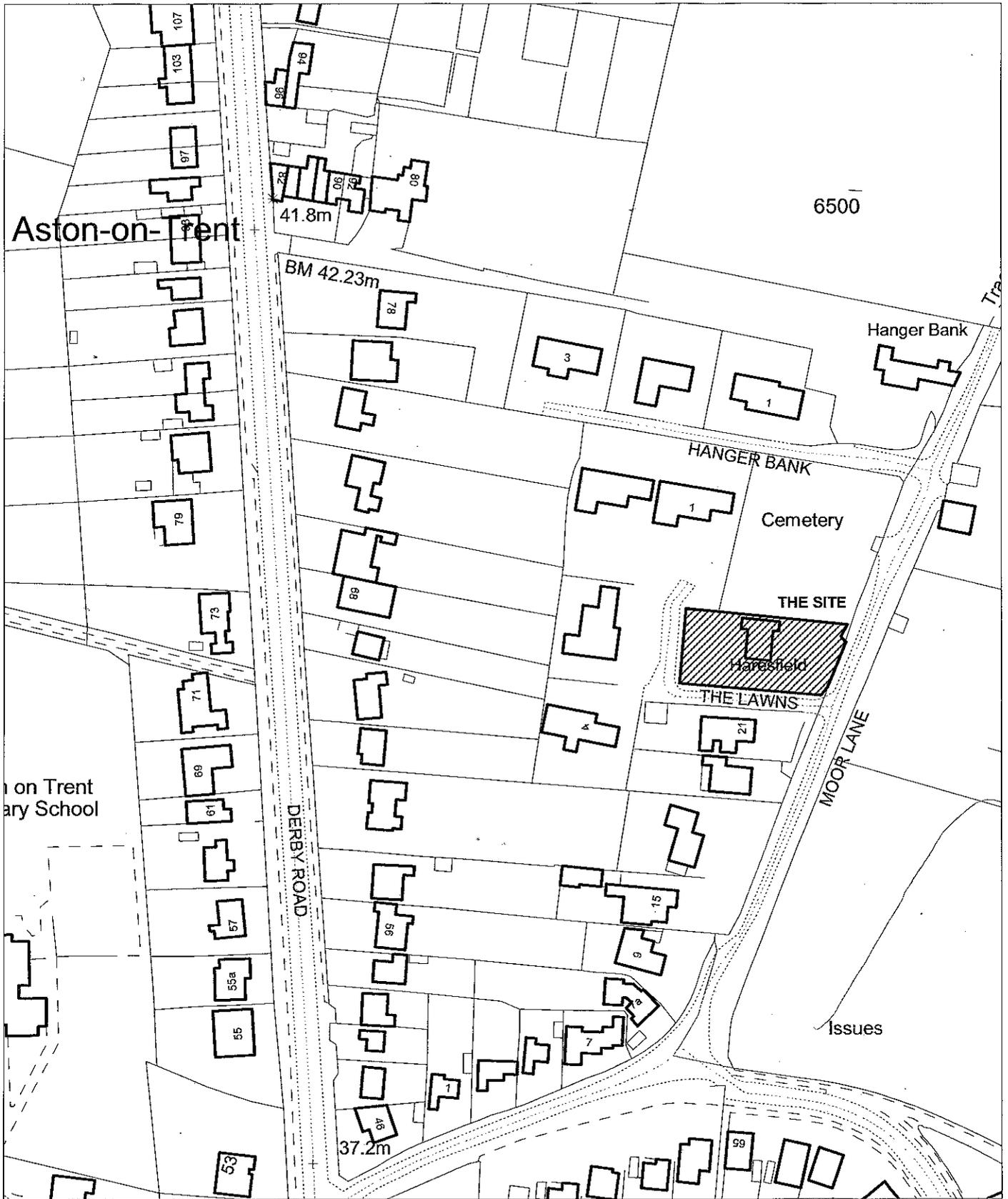
The site lies immediately to the south of the village cemetery and immediately to the north of the private drive serving Nos 1-4 The Lawns. The site is presently occupied by a single detached dwelling, dating from the early 1960s and located centrally. The gardens are laid mainly to lawn, with no significant trees. Boundaries are a mix of low walls, fences and hedges. A public sewer runs through the site connecting properties in The Lawns to the sewer in Moor Lane.

**Proposal**

It is proposed to demolish the existing house and to replace with two detached dwellings. This would involve developing adjacent to the side boundaries. The dwellings would contain two storeys to eaves level and the roofs would also be utilised to provide second floor accommodation. Following discussion with the applicant the layout has been amended to keep the building clear of the cemetery boundary.

**Applicants' supporting information**

The garage has been moved away from the boundary relative to the house. This gives extra distance of about 450 mm to the boundary. The graves are also about 450 mm from the boundary so 900 mm should provide sufficient safe distance so as to not disturb the graves. It is also recommended that the garage wall parallel to the cemetery boundary be hand dug in small sections and filled with concrete before the next section is dug.



 <p>South Derbyshire District Council Civic Offices Civic Way Swadlincote DE11 0AH</p>	<p>9/2007/1464/F Haresfield Moor Lane Aston-on Trent</p>	<p>Date Plotted 25/1/2008</p>	<p>NORTH ↑</p>
	<p>Crown Copyright. All rights reserved. South Derbyshire District Council OS Licence No. LA 100019461. 2006</p>	<p>Plot centred at 435306 323874</p>	<p>Scale 1:1500</p>

## **Responses to Consultations**

The Parish Council objects on the following grounds:

- a) The development would be out of character with this area of the village.
- b) The dwellings would be too close together and present a case of over development.
- c) The boundary is extremely close to at least one grave in the cemetery, which is causing great distress to the relatives.
- d) The ownership of the boundary should be established.

The Head of Finance and Property objects because the close proximity of the development could affect the structural stability of the closest graves, which would cause great distress to the family and loved ones of those buried. In addition graves continue to be dug and utilised close to the wall and the Council would not wish this to affect the stability of any proposed building nearby. If development is to be permitted it should be a reasonable distance from the boundary.

Severn Trent Water Ltd has no objection in principle but points out that it would be necessary to divert the public sewer in accordance with the Water Industry Act 1991.

The County Highway Authority prefers the access to the southern plot to be moved as far away as possible from the access to The Lawns. It is content for this matter to be dealt with by condition.

## **Responses to Publicity**

Mark Todd MP comments that he has been contacted by a constituent concerned about potential disturbance to a family grave and considers the others are likely to share the constituent's concerns.

Five neighbours object as follows:

- a) The development could disturb the adjacent grave, which is causing great distress.
- b) There would be over dominance, loss of light and privacy to neighbouring dwellings.
- c) The development would encroach onto neighbouring land, including the access to The Lawns, which would be dangerous.
- d) If permitted the dwellings should be 3-5 metres away from the boundaries.
- e) Moor Lane is inadequate for more development.
- f) The site would be overdeveloped.
- g) The development would be out of keeping with the bungalows in the locality.
- h) Parking provision would be inadequate leading to parking in Moor Lane.

## **Development Plan Policies**

The relevant policies are:

RSS8: Policy 3

Local Plan: Housing Policies 5 & 11

## **Planning Considerations**

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

- The principle
- Visual impact.
- Residential amenity.
- Drainage and sewerage.
- Highway safety.
- Other matters raised.

## **Planning Assessment**

The site lies within the village confine and development would therefore be in accord with the locational principles of sustainable development.

Whilst there is a predominance of bungalows in the immediate locality there are two-storey buildings in the wider local area. The existing dwelling is two storey albeit with a shallow pitched roof, which makes it less tall than the proposed dwellings. However the design of the new dwellings would be superior to the existing dwelling, utilising some of the principles set out in Historic South Derbyshire. As such the development would be in keeping with the scale and character of the village.

The distances set out in supplementary planning guidance would be met by the development, thus protecting the amenities of neighbours to a reasonable degree.

The integrity of the public sewer is safeguarded by other legislation. However a condition could be applied to preclude development of the affected plot before the relevant diversion procedures have been followed.

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

The revised drawing shows the dwelling clear of the cemetery boundary. The residual issue of potential disturbance as a result of building operation is fundamentally a civil matter and not a material planning consideration. Nevertheless the applicant's architect has provided advice that building can be undertaken without any such disturbance.

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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing received 25 January 2007 under cover of the agent's e-mail dated 24 January 2007 showing revised roof and layout details.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.
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. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.  
Reason: In the interests of the appearance of the building(s) and the character of the area.
6. Gutters and downpipes shall have a black finish.  
Reason: In the interests of the appearance of the building(s), and the character of the area.
7. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.  
Reason: In the interests of flood protecting and pollution control.
8. Unless as may otherwise be agreed in writing with the Local Planning Authority, there shall be no development within 2.5 m of the line of the public foul sewer passing through the site until such time it has been diverted in accordance with Section 185 of the Water Industry Act 1991.  
Reason: To ensure maintenance of essential access to the sewer.
9. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).  
Reason: To protect the amenities of adjoining properties and the locality generally.

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

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

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

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

12. 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.

13. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate three cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed by the Local Planning Authority in accordance with its published standards. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), three parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

14. Notwithstanding the particulars of the application, revised details of the access arrangements for Plot 2 shall be submitted for approval in writing by the Local Planning Authority prior to commencement of building operations. The access shall be constructed in accordance with the revised details.

Reason: The submitted details are considered unsatisfactory.

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

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/delegated</b>
9/2006/1325	Repton	Repton	Dismissed	Delegated
9/2007/0050	Egginton	Etwall	Allowed	Committee
9/2007/0059	Egginton	Etwall	Allowed	Committee
9/2007/0442	Etwall	Etwall	Allowed	Delegated



# Appeal Decision

Hearing held on 13 November 2007

Site visit made on 13 November 2007

by **Simon Berkeley** BA MA MRTPI

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

The Planning Inspectorate  
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Decision date:  
11 January 2008

**Appeal reference: APP/F1040/A/07/2036733**

**Land at 7A Pinfold Lane and 53 Pinfold Close, Repton, Derby DE65 6GH**

- 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 Repton Property Development Co. Ltd against the decision of South Derbyshire District Council.
- The application reference 9/2006/1325/O, dated 10 November 2006, was refused by notice dated 23 January 2007.
- The development proposed is an outline planning application for residential development at 7A Pinfold Lane, including demolition of 53 Pinfold Close and 7A Pinfold Lane, together with the formation of new access from Pinfold Close.

## Decision

1. I dismiss the appeal.

## Application for costs

2. At the Hearing an application for costs was made by Repton Property Development Co. Ltd against South Derbyshire District Council. This application is the subject of a separate decision.

## Procedural matters

3. The planning application is in outline, with all matters, other than access, reserved for later consideration. Drawing number 1320-11, submitted with the application, shows an indicative layout including seven detached houses, as do two further schematic plans introduced at the Hearing. However, it was confirmed on behalf of the appellant that layout forms no part of the application and the drawing is for illustrative purposes only. I have dealt with the appeal on that basis.
4. Outline planning permission for housing on the site was first granted in March 1999 (reference 9/0995/0459/O). The appellant confirms that the most recent grant of outline planning permission (reference 9/2001/1185/R, dated November 2003) expired in November 2006. There is no extant planning permission in place and I have, therefore, determined the appeal on the merits of the development proposed.

## Main issue

5. The main issue is the effect of the proposed development on the setting of the Repton Conservation Area.

## Reasons

6. The appeal site comprises land enclosed on three sides by houses and their rear gardens. Most of the site is covered with brambles, bushes and trees, some of which are protected by a Tree Preservation Order (TPO), and it includes 7A Pinfold Lane. A public footpath bisects the south western portion of the site, running along a north-west to south-east axis.
7. Two distinct parts of the Repton Conservation Area are adjacent to the site. Beyond the brook to the south-west, the conservation area includes eighteenth century houses and other buildings along High Street, although this is interrupted by the recent Richmond Court development. To the north-west lies the adjacent meadow and small-holding field beyond, which have local significance as a vestige of the historical village edge. They form an open 'green finger' between the historic buildings and the more recent houses to the north east, including Pinfold Close.
8. The Council and appellant agree it is important to retain visual separation between buildings in the conservation area and the more modern development, and that the appeal site currently contributes to this, and should continue to do so. However, whilst the appellant argues that the trees on site are the key demarking feature, the Council considers the site's most important characteristic in this respect is its absence of buildings.
9. To some extent, I agree with both parties. The trees within the site, particularly those in the TPO area along the line of the brook, do give clear visual definition to the built envelope of the conservation area. Although they are behind the buildings on High Street, the tallest are visible from the street above the rooftops, and the gaps between buildings reveal a number of glimpses of the tree line. Overall, they provide an attractive visual backdrop to the village street scene, giving a sense of enclosure to the historic core that is an important component of the conservation area's setting. I do not doubt the appellant's assertion that the proposed development would retain and improve this tree line, which I consider to be an important benefit.
10. However, the site is currently generally open, undeveloped land. In this respect, the setting it provides for the built part of the conservation area reflects the historical relationship between the developed village envelope and the undeveloped countryside adjacent to it. The proposed houses would result in the loss of this visual replication of the historical pattern of the village. They would also more closely merge recent development with the conservation area's historic buildings. Even if the buildings themselves were of a high quality design, I consider this would erode its distinctiveness supported, in this vicinity, by its physical separation. Whilst I acknowledge that the boundary of the site with the built part of the conservation area is interrupted by Richmond Court, this does not, in my view, diminish the importance of its role in providing the setting of those historic buildings it is adjacent to.
11. In addition, the site forms part of the setting of the adjacent meadow. Whilst the site has been developed in the past, its current general absence of buildings visually reflects the undeveloped appearance of the meadow. Although the site is overgrown and the meadow is not, the former extends and adds to the overall rural character of the latter. The proposed development

would result in the enclosure of the meadow on three sides. This would further weaken its sense of representing the historic village edge, increasing the erosion caused by the visual impact of houses on Pinfold Close, and would reduce the extent of the area with predominantly rural characteristics. Overall, I consider the proposed development would have a negative visual impact on the setting of the conservation area, particularly in relation to its open parts.

12. Paragraph 4.14 of Planning Policy Guidance 15: *Planning and the Historic Environment* (PPG15) notes that the desirability of preserving or enhancing a conservation area should also be a material consideration when development proposals which are outside a conservation area, but would affect its setting or views into or out of the area are considered. In this sense, the proposal falls contrary to the broad purpose of Environment Policy 12 of the South Derbyshire Local Plan.
13. The Council's decision also refers to Environment Policy 9 of the Derby and Derbyshire Joint Structure Plan. Because that policy has not been saved under the terms of a direction made under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, I have not taken account of it.
14. In addition, in my view, most of the site, excluding that part occupied by 7A Pinfold Lane, is an open space. Although it has been developed in the past, it now forms an undeveloped, densely vegetated space that adds to the 'green finger' of the meadow and small-holding field. I understand the Council's audit and assessment of open spaces, as required by Planning Policy Guidance 17: *Sport and Recreation*, has not yet expanded to include semi-natural spaces of this sort, and so the site has not been assessed. I consider it makes an important contribution to the character and environmental quality of Repton generally, as an open break in the built area, a pleasant corridor for the public footpath and a semi-natural area. Whilst I acknowledge that a portion of the site would remain as open space, the proposed development would result in the loss of a substantial area of open space, which would have a significant negative impact on the character and appearance of the area.
15. I therefore conclude the proposed development would conflict with Local Plan Environment Policy 8, which safeguards from development open spaces, gaps and landscape features which make a valuable contribution to the character or the environmental quality of villages.
16. Whilst the Council and appellant disagree about whether the site is previously developed land, they agree the site is in a sustainable location, and I concur with this view. Furthermore, I acknowledge the benefits contained in the Unilateral Undertaking, particularly the restoration of the south-west portion of the site, including the public footpath, its transfer into public ownership, and the financial sum for the future upkeep of the land. This would undoubtedly result in the improvement of this land in terms of its appearance, and in all likelihood as a wildlife habitat. In this way the scheme would draw some support from Planning Policy Statement 3: *Housing* (PPS3). However, neither this support, nor the benefits that would accrue from the Unilateral Undertaking are sufficient, in my view, to outweigh the harm that would be caused to the setting of the conservation area by the loss of open space.

17. Local residents have raised a number of concerns, particularly in relation to flooding, highway safety and the inadequacy of the local sewer infrastructure, and I have taken account of all the evidence before me. I note that the Environment Agency, the Highway Authority and Severn Trent Water have raised no objections. In addition, although I did see a badger's sett on the site during my site visit, there is no evidence to confirm whether it is active or disused. In any event, important though all these matters are, they are not decisive in this case.
18. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Simon Berkeley*

INSPECTOR

## Appearances

### For the appellant:

Peter Diffey BA (Hons) MRTPI	Peter Diffey and Associates Ltd
Paul McLocklin	Montague Architects Ltd
Dilraj Singh Sandhu	Repton Property Development Co Ltd

### For the local planning authority:

Anthony Young MA MRTPI	South Derbyshire District Council
Marilyn Hallard	South Derbyshire District Council
DipTP Dip Arch(Cons) IHBC	
Ian Taylor	South Derbyshire District Council
Gill Hague	South Derbyshire District Council

### Interested persons:

Allen Pettitt	61 Pinfold Close, Repton
Barrie Whittle	49 Pinfold Close, Repton
Peter Cook	55 Pinfold Close, Repton
John Shortt	Repton Parish Council
Malcolm Chell	41 Pinfold Close, Repton
Bernice McLaren	50 Pinfold Close, Repton
Helen Robertson	81 High Street, Repton
Bridget Young	3 Richmond Court, Repton
Mary Regan	91 High Street, Repton
Marjorie Boddice	5 Pinfold Lane, Repton
Julia Juneau	83 High Street, Repton
Heather Wheeler	Leader of South Derbyshire District Council

### Documents

- 1 Unilateral Undertaking by Repton Property Development Co Ltd, dated 13 November 2007 and signed
- 2 The Secretary of State's Directions under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 in respect of policies in the Derby and Derbyshire Joint Structure Plan, and policies in the South Derbyshire Local Plan
- 3 Copies of letters relating to problems with trees on the appeal site
- 4 A letter objecting to the appeal development, including two photographs of flood water, from Mr and Mrs Andrew Robertson, 81 High Street, Repton

### Plans

- A Schematic layout – modern/green sustainable approach
- B Schematic design – traditional approach

### Photographs

- 1 Ten photographs showing flooding, including on Pinfold Lane, Repton



# Appeal Decision

Site visit made on 18 December 2007

by Mr J P Sargent BA(Hons) MA MRTPI

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

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Decision date:  
10 January 2008

## Appeal Ref: APP/F1040/A/07/2054904 Egginton Hall, Egginton, Derby DE65 6HP

- 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 & Mrs K Ellis against the decision of South Derbyshire District Council.
- The application Ref 9/2007/0050/U, dated 5 January 2007, was refused by notice dated 6 March 2007.
- The development proposed is the change of use from garden store to B1 office, with new pitched roof and 3 new windows.

## Decision

1. I allow the appeal, and grant planning permission for the change of use from garden store to B1 office, with new pitched roof and 3 new windows at Egginton Hall, Egginton, Derby DE65 6HP in accordance with the terms of the application, Ref 9/2007/0050/U, dated 5 January 2007, and the drawings entitled 'Proposed Drawing 06' and 'Existing Drawings', subject to the following conditions:
  - 1) the development hereby permitted shall begin not later than 3 years from the date of this decision;
  - 2) no development shall take place until samples of the materials to be used in the construction and renovation of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details;
  - 3) no windows, doorways or openings, other than those authorised by this permission shall be formed in the elevations of the building;
  - 4) the use shall not commence until drainage works have been carried out in accordance with details that have first been submitted to and approved in writing by the local planning authority;

## Reasons

### *Impact on the countryside*

2. The proposal involves the substantial re-use of this existing detached building. The works would alter the building's form by lowering its walls, creating a pitched roof and inserting various new openings. However, I am of the opinion that its current utilitarian design is not sympathetic with this rural location, and

does not contribute positively to the character of the countryside in which it sits. Rather, to my mind the works now proposed would reduce the scale of the building by visually breaking the elevations, and would result in its form, bulk and design being more in keeping with its surroundings. Therefore, I consider that the scheme would improve the building's character and appearance, and would enhance the rural landscape around.

3. In reaching this view I am aware recent appeals have been dismissed that concerned alterations to this garden store. However, from the submitted decisions it would appear that, in each case, the works would have resulted in its enlargement, and so, in this respect, they were materially different to the development before me.
4. The proposal would be for commercial activity and so would be unlikely to result in excessive paraphernalia outside the building. It would also be relatively close to the Egginton Hall complex. Three new openings would be formed, but the double doors would be concealed behind the surrounding wall, while the 2 windows on the rear elevation would be of a simple design. Therefore, I consider that the conversion would not constitute a significant additional urban encroachment into this part of the countryside. I note as well that the resultant building would not be taller than the existing structure and so I see no reason why it should give rise to further pressure on the adjacent protected trees.
5. Moreover, the site is close to the village of Egginton with a bus stop near to the end of the drive. Therefore, having regard to Planning Policy Statement 7 *Sustainable Development in Rural Areas* (PPS7) I consider that re-using this building for economic development purposes would be suitable in this location.
6. Accordingly I conclude that the proposal would not be out of keeping with its surroundings and would not detract unacceptably from the character and appearance of the countryside. Consequently, it would not be in conflict with Employment Policy 4 in the *South Derbyshire Local Plan* or national policy in PPS7.

### **Flood risk**

7. Although not a reason for refusal, the Environment Agency (EA) stated that the proposal was within an area of identified flood risk. Therefore, the EA considered that a Flood Risk Assessment (FRA) should have been undertaken in accordance with Planning Policy Statement 25 (PPS25) *Development and Flood Risk* (dated December 2006) to demonstrate how the flood risk to the development itself and to others would be managed.
8. The FRA I received was not prepared for this specific proposal. Rather, it had been initially presented in 2005 in connection with an application to use the ground floor for office use with living accommodation above. This FRA was considered to be acceptable at that time, and, in commenting on that 2005 scheme, the EA suggested a condition to require the level of the ground floor to be the same as now proposed.
9. I am also aware that since determining the scheme before me a further application has been considered on the site, which was accompanied by an FRA that was very similar to the one I have received. I do not have the comments

from the EA on that scheme, though flood risk was given as a reason for refusing planning permission. In that case though the proposal was to use the building for living accommodation.

10. The submitted FRA pre-dates PPS25, but I have not been expressly told of the ways in which it is deficient for a development of this scale. I am also mindful that this proposal for a change of use relates to an existing building that is not to be enlarged, and I have no basis to assume it would affect the floodplain or its defences. Moreover the proposed new use is one that, under Annex D of PPS25, is defined as less vulnerable.
11. Therefore, whilst I have taken account of the concerns raised by the EA, on balance and in the light of the evidence before me I consider that the proposal would not give rise to undue additional flood risk. Furthermore any such risk that may occur would not be sufficient to outweigh the benefits from re-using this building in the manner now proposed.
12. In reaching this view I have noted the conditions suggested by the EA. I accept that the requirement for a drainage scheme is necessary so as to protect the water environment. However, in the light of my reasoning a further FRA is not needed, and so a condition to that effect is unnecessary.
13. Accordingly, taking account of its scale, nature and location, I conclude that any flood risk arising from the proposal in relation either to the development itself or to others would not be unacceptable, and so would not be in conflict with the purposes of PPS25.

### **Conditions**

14. As well as the drainage condition discussed above, I consider that, in order to safeguard the appearance of the area, conditions should be imposed requiring materials to be agreed and preventing further openings.
15. However, the Council has also suggested a condition to require the office to be occupied only by members of the Egginton Hall household. I note that one of the Appellants intends to work in the office, but this is not expressly stated in the application forms, and indeed these indicate that 2 people would be employed there. No special planning grounds have been cited to show that the scheme should be refused in the absence of this suggested condition, and Circular 11/95, *The Use of Conditions in Planning Permissions*, says it would normally be inappropriate to impose such a condition on a building of this size. I accept that without this condition the office could be used by those living elsewhere. However, as stated above I have reached the view that this is not an unduly remote location and so this need not result in unsustainable vehicle movements. Moreover, the amount of traffic likely to be associated with a building of this size would not cause harm to highway safety or the living conditions of those around, especially as the drive is currently used in connection with the village playing fields. Accordingly, I consider that requiring the office to be occupied by those living at the Hall would be unnecessary.
16. Finally, noting that the site is not within a conservation area, I consider the suggested conditions relating to joinery, plumbing and guttering would be excessive.

**Conclusions**

17. Therefore, for the reasons given above I conclude that the appeal should be allowed.

*J P Sargent*

INSPECTOR



# Appeal Decision

Site visit made on 4 December 2007

by **Donald Rankin Dip TP MRTPI**

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

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Decision date:  
9 January 2008

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## Appeal Ref: APP/F1040/A/07/2054866

### Egginton Hall, Church Road, Egginton, Derby, DE65 6HP

- 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 and Mrs K Ellis against the decision of South Derbyshire District Council.
  - The application (Ref 9/2007/0059/F), dated 5 January 2007, was refused by notice dated 6 March 2007.
  - The development proposed is a new roof to garden store.
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## Decision

1. I allow the appeal and grant planning permission for a new roof to garden store at Egginton Hall, Church Road, Egginton, Derby, DE65 6HP in accordance with the terms of the application Ref 9/2007/0059/F, dated 5 January 2007 and the plans submitted therewith, subject to the following conditions:
  - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
  - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 3) External joinery shall be in timber and painted to a colour and specification that shall have been previously agreed in writing by the Local Planning Authority.
  - 4) Gutters and down pipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
  - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the building.

## Main issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

## Reasons

3. The proposal is to lower the walls of a former generator house, now used as a garden store, and to replace the flat roof with a pitched one. The final height of
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the building would remain approximately the same as at present. No change of use from the present garden store is proposed and I have no reason to suppose that the level of activity will materially alter.

4. The building is a flat roofed utilitarian structure not characteristic of the style of Egginton Hall or its surrounding outbuildings. I note that in former appeals the building has not been considered to have any architectural merit, and indeed to detract from the character of the surrounding area. I see no particular merit in retaining the present flat roof and I consider that the roof replacement would enhance the building both structurally and visually. No new windows are proposed and the existing surrounding wall would be retained. With an appropriate condition to prevent any future windows I consider that the proposed development would not introduce a new residential character into the area. Given that the proposal would improve the roof profile, whilst maintaining approximately the same height as at present, I consider that the view from the houses in Fishpond Lane and Church Road would not be harmed.
5. The former appeal decisions referred to, all relate to increasing the height and visibility of the building or introducing new activity considered to be inappropriate for its countryside location. The current proposal differs significantly from these previous ones. I note that the Structure Plan Policy used in the reason for refusal has not been saved. Employment Policy 4: *Promoting the Rural Economy*, of the South Derbyshire Local Plan 1998 remains the reason for refusal of permission. That policy accepts the adaptation of rural buildings provided their form, bulk and design are in keeping with their surroundings. For the reasons given above I consider that to be the case. The proposal in my view is not therefore, contrary to the policy of the local plan.
6. Having regard to the provisions of Circular 11/95: *The use of conditions in planning permissions*, in addition to the statutory time limit conditions 2,3 and 4 have been added to this permission to ensure that the proposed development blends with the existing building, and condition 5 to protect the character and appearance of the area. I note the additional conditions suggested by the Council on window joinery, internal services and office accommodation. I do not consider these appropriate to the permission sought.
7. For the reasons given above I conclude that the appeal should be allowed.

*Donald Rankin*  
INSPECTOR



# Appeal Decision

Site visit made on 17 December 2007

by Mr J P Sargent BA(Hons) MA MRTPI

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

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Decision date:  
18 January 2008

## Appeal Ref: APP/F1040/A/07/2055416 40 Main Street, Etwall, Derbyshire DE65 6LP

- 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 John G Stanley against the decision of South Derbyshire District Council.
- The application Ref 9/2007/0442/FH, received by the Council on 25 April 2007, was refused by notice dated 22 June 2007.
- The development is the erection of railings.

### Decision

1. I allow the appeal, and grant planning permission for the erection of railings at 40 Main Street, Etwall, Derbyshire DE65 6LP in accordance with the terms of the application, Ref 9/2007/0442/FH, received by the Council on 25 April 2007, and the details submitted with it.

### Procedural Matters

2. I have not been able to refer to the date on the planning application form as it was not legible on the copy submitted. Furthermore, although I have no scaled plans of the development, I am mindful that the Council has not stated that the details before me were insufficient to determine the proposal.

### Reasons

3. Etwall is a settlement that has grown up organically over the years. This is shown in the varied scale and style of built form that is found throughout the village in general and across the Etwall Conservation Area in particular. Moreover, its organic past is also indicated by the range of boundary treatments around properties in the historic core of the settlement, with no strong rhythm in their style or pattern being apparent. Indeed, even though railings are a common feature, these are of a variety of designs and heights, with some being relatively plain whilst others display more ornate ironwork.
4. No 40 is one of 3 properties in a short terrace that lies in the heart of the conservation area behind a wide pavement. The property is not listed, and it is not adjacent to a listed building. I understand that the front of all 3 properties used to be enclosed by railings but, apart from 2 short sections separating No 38 from the gardens to either side, these were removed in the 1940's leaving only the plinth on which they stood. However, the garden of No 40 was recently enclosed by the fencing subject of this appeal, and I understand this occurred before the planning application was submitted. Railings of a broadly

similar but different design have also been erected around the front garden of the property at the other end of the terrace, which I was told was No 36.

5. As railings originally enclosed this front garden I raise no objection, in principle, to their re-use. Indeed I consider that the plinth alone would have provided a weak frontage treatment for the appeal property.
6. The Appellant has stated that he could not afford to erect replacement railings if those now in place had to be removed. Furthermore, as he owns neither of the other 2 properties in the terrace and as there is fencing of a slightly different style around the front of No 36, I have no reason to assume that a uniform design of railings would be re-instated along this row at some future date if I were to resist this scheme.
7. I consider that the general size, form and proportion of the railings at No 40 are suitable in this context. I appreciate that their detailing may well not be authentic for such a boundary treatment around a property of this age and style. However, taking account of the varied nature of fencing in the locality, I consider the concerns identified by the local planning authority in relation to the detail are not of a scale or dominance that results in the development failing to preserve or enhance the character or appearance of the conservation area. Therefore in my judgement this scheme is acceptable in this location, and, as it is now erected, it need be subject to no conditions.
8. The Appellant expressed concern about how the Council handled the proposal, but this is not a matter to which I have attached significant weight.
9. Accordingly I conclude that the development does not fail to preserve or enhance the character or appearance of the Etwall Conservation Area, and so it is not contrary to Environment Policy 12 in the *South Derbyshire Local Plan* or advice in Planning Policy Guidance 15 *Planning and the Historic Environment*.

*J P Sargent*

INSPECTOR