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Chief Executive

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Date: 20 June 2016

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 28 June 2016** at **18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Conservative Group**

Councillor Roberts (Chairman), Councillor Mrs. Brown (Vice-Chairman) and Councillors Atkin, Mrs. Farrington, Ford, Mrs. Hall, Harrison, Stanton and Watson.

Labour Group

Councillors Dr Pearson, Shepherd, Southerd and Tilley.



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AGENDA

Open to Public and Press

- 1** Apologies and to note any substitutes appointed for the Meeting.
- 2** To receive the Open Minutes of the Meeting held on 12th April 2016.

Planning Committee 12th April 2016 Open Minutes **3 - 8**
- 3** To note any declarations of interest arising from any items on the Agenda
- 4** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 5** REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES **9 - 127**
- 6** VARIATION TO TENURE SPLIT OF AFFORDABLE HOUSING IN RESPECT OF PLANNING PERMISSION FOR 100 DWELLINGS ON LAND AT WILLINGTON ROAD, ETWALL **128 - 129**

Exclusion of the Public and Press:

- 7** The Chairman may therefore move:-
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 8** To receive the Exempt Minutes of the Meeting held on 12th April 2016.
Planning Committee 12th April 2016 Exempt Minutes
- 9** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 10** ENFORCEMENT ACTION

PLANNING COMMITTEE

12th April 2016

PRESENT:-

Conservative Group

Councillor Roberts (Chairman), Councillor Mrs Brown (Vice-Chairman) and Councillors Atkin, Mrs Coe (substituting for Councillor Watson), Mrs Farrington, Ford, Grant, Mrs Hall and Stanton.

Labour Group

Councillors Dr Pearson, Rhind (substituting for Councillor Dunn), Shepherd and Southerd

In Attendance

Councillors Muller and Smith.

PL/198 **APOLOGIES**

Apologies for absence from the Meeting were received on behalf of Councillors Watson (Conservative Group) and Dunn (Labour Group).

PL/199 **MINUTES**

The Open Minutes of the Meetings held on 1st March 2016 (PL/169-PL/179) and 22nd March 2016 (PL/180-PL/195) were taken as read, approved as a true record and signed by the Chairman.

PL/200 **DECLARATIONS OF INTEREST**

Councillor Mrs Brown declared a personal interest in applications **9/2015/0768OS** and **9/2015/0555/RSD** by virtue of being an acquaintance of members of the John Port charity and John Port school through her position as a governor of the school.

PL/201 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

MATTERS DELEGATED TO COMMITTEE

PL/202 REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

The Director of Community and Planning Services submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/203 OUTLINE APPLICATION WITH ACCESS FOR APPROVAL NOW AND ALL OTHER MATTERS TO BE RESERVED FOR FUTURE APPROVAL FOR THE RESIDENTIAL DEVELOPMENT COMPRISING 252 DWELLINGS WITH ASSOCIATED ACCESS, LANDSCAPING, OPEN SPACE AND DRAINAGE INFRASTRUCTURE AT LAND AT SK2934 8494 WEST OF LADYBANK ROAD MICKLEOVER DERBY

It was reported that members of the Committee had visited the site earlier in the day.

The Principal Area Planning Officer made reference to the latest highway objection from Derby City Council, additional conditions and further comments received from residents and the applicant. A typing error in paragraph four of the *Planning balance and overall conclusion* section, where 'unacceptable' should have read as 'acceptable', was also highlighted.

Mr Matthew Holmes (objector) and Mr Tom Collins (applicant's agent) attended the Meeting and addressed Members on this application.

The Vice-Chairman addressed the Committee as local Ward Member for Etwall, expressing her reservations about the application, referring to the many objections, referring to issues such as traffic, water supply, sewage, health service provision, flooding potential and the possibility of installing a buffer zone and limits on the height of the first line of properties along the eastern boundary.

Councillor Ford suggested that the matter be deferred, as the issues required more information and time to consider.

The Chairman queried whether the matter could be brought back to Committee if the modelling identified any major issues. The Planning Services Manager stated that the modelling would not determine the acceptability of the scheme, but would aid determination of the Section 106 funding provision, confirming that the matter could be returned to Committee if required.

Councillor Southerd expressed his view that matters had been dealt with satisfactorily, that buffer zones were not necessary, difficult to maintain and in any event, did not support integration. He also stated that a deferral was not defensible and that the Planning Services Manager was capable of negotiating the necessary provision, but could return the matter to Committee if required.

Councillor Atkin also made reference to a buffer zone and queried whether, if the height of the initial housing could not be restricted, whether it could be moved back. Concerns were also expressed in relation to the suggested main access road, the impact on residents and education capacity in the area.

The Principal Area Planning Officer noted the queries and responded to each, emphasising that only the traffic modelling matter was outstanding, all other technical matters having been addressed.

RESOLVED:-

- A. That delegated authority be granted to the Planning Services Manager to secure the appropriate level of contributions for mitigation of the impact of the development under Section 106 of the Town and Country Planning Act 1990 (subject to compliance with the CIL Regulations 2010);**
- B. That, subject to A. above, planning permission be granted subject to the conditions as set out in the updated report of the Director of Community & Planning Services, including those amended or added conditions as reported to the Committee and the informative requesting the change of properties on the eastern boundary to single storey dwellings.**

PL/204 **APPROVAL OF RESERVED MATTERS (EXCEPT LANDSCAPING) ON LAND SUBJECT TO OUTLINE PERMISSION 9/2013/1040 FOR 100 DWELLINGS, PUBLIC OPEN SPACE, DRAINAGE AND ASSOCIATED WORKS ON LAND AT SK2731 3037 WILLINGTON ROAD ETWALL DERBY**

The Principal Area Planning Officer updated the Committee with the request for additional new conditions, reported the letter from a neighbouring householder and comments from the applicant, in that the proposed buffer zone would be controlled and maintained by a management company, to be secured by condition.

Mrs Angela Jenner (objector) attended the Meeting and addressed Members on this application.

The Vice-Chairman addressed the Committee as local Ward Member for Etwall, making reference to the desirability of a buffer zone in this instance, enabling access to and maintenance of the drainage ditch on the site. With regard to the proximity of properties on Plot1, it was suggested that this could be addressed by relocating the garage.

Councillor Muller also addressed the Committee as the other local Ward Member for Etwall, expressing his support for residents affected by the development, welcoming the buffer zone, but commenting that the removal of hedges in the yet to be determined Phase2 of the development to be a little presumptive.

RESOLVED:-

That planning permission be granted subject to the conditions, including the amendment to Plot1 to lessen the impact on the existing property No.62 Willington Road, Etwall, set out in the updated report of the Director of Community & Planning Services. An informative was also added, requesting that individual access to the buffer zone be granted for maintenance purposes.

Abstention: Councillor Ford

Councillor Muller left the Meeting at 7.25pm.

PL/205 **THE ERECTION OF A REPLACEMENT DWELLING WITH DETACHED GARAGE AND ENTRANCE GATES AT LAND ADJACENT TO 7A PINFOLD LANE REPTON DERBY**

The speaker registered to speak against this application was not in attendance.

Councillor Stanton addressed the Committee as local Ward Member for Repton, stating that the application had not been well received, the feeling being that the area should be used as open space. He also commented, in relation to sustainability, that despite the village being subject to more development than anticipated, no infrastructure improvements had been made to date.

Councillor Smith also addressed the Committee as the other Ward Member for Repton, stating that the 'replacement' was not like-for-like, due to the scale of the proposed property, its location in a conservation area and his concern relating to the narrow access.

Councillor Southerd queried the ownership of the land separate to the building plot and whether this could be turned to garden. Councillor Mrs Hall welcomed the application, stating that large, individual properties can enhance an area. Councillor Atkin, in making reference to the narrow access, queried how the works traffic could be accommodated, suggesting that the construction hours be restricted.

The Planning Services Manager noted the various queries and responded accordingly, also referring to corrections to Condition 18 and 20.

RESOLVED:-

That planning permission be granted, subject to the conditions set out in the updated report of the Director of Community & Planning Services, including the additional condition restricting construction hours and the informative request to be considerate of local parking.

Councillor Smith left the Meeting at 7.45pm.

PL/206 **VARIATION OF CONDITION 2 OF PLANNING PERMISSION REF: 9/2013/0745 (RELATING TO THE ERECTION OF 77 DWELLINGS, PUBLIC OPEN SPACE, ACCESS AND DRAINAGE INFRASTRUCTURE) ON LAND AT SK2928 5584 ETWALL ROAD WILLINGTON DERBY**

RESOLVED:-

- A. That delegated authority be granted to the Planning Services Manager to complete a Deed of Variation to the existing Section 106 Agreement to secure the affordable housing changes referred to in the body of the report;**
- B. That, subject to A. above, permission be granted subject to the conditions set out in the report of the Director of Community & Planning Services.**

PL/207 **THE ERECTION OF 1 PAIR OF SEMI-DETACHED DWELLINGS (2 DWELLINGS) AT 28 BURTON ROAD CASTLE GRESLEY SWADLINCOTE**

RESOLVED:-

That planning permission be granted subject to the conditions set out in the report of the Director of Community & Planning Services.

PL/208 **PLANNING AND OTHER APPEALS**

The Committee noted the planning appeal decisions in relation to the following applications;

- | | |
|-------------|---|
| 9/2014/1157 | Wengen, Woodshop Lane, Swarkestone, DE73 7JA. |
| 9/2015/0038 | The Coppice, 576 Burton Road, Midway, DE11 0DP. |
| 9/2015/0530 | Lambert House, Ashby Road, Melbourne, DE73 8ES. |

PL/209 **PROPOSED TREE PRESERVATION ORDER 419 AT 1 ST PETERS CLOSE, HARTSHORNE**

RESOLVED:-

That this Tree Preservation Order (TPO) be confirmed without modification.

PL/210 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be

disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

EXEMPT MINUTES

The Exempt Minutes of the meeting held on the 22nd March 2016 (PL/196-PL/197) were taken as read, approved as a true record and signed by the Chairman.

EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.

The Committee was informed that no questions had been received.

The meeting terminated at 7.50pm.

COUNCILLOR A ROBERTS

CHAIRMAN

REPORT OF THE DIRECTOR OF COMMUNITY AND 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 2015 (as amended) responses to County Matters and strategic submissions to the Secretary of State.

Reference	Item	Place	Ward	Page
9/2015/0440	1.1	Hartshorne	Woodville	11
9/2015/0893	1.2	Hilton	Hilton	20
9/2015/1199	1.3	Repton	Repton	28
9/2016/0135	1.4	Repton	Repton	39
9/2016/0098	1.5	Etwall	Etwall	41
9/2016/0102	1.6	Overseal	Seales	52
9/2016/0348	1.7	Barrow on Trent	Aston	65
9/2016/0358	1.8	Barrow on Trent	Aston	78
9/2016/0366	1.9	Melbourne	Melbourne	81
9/2016/0379	1.10	Repton	Repton	89
9/2016/0395	1.11	Repton	Repton	98

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 Director of Community and Planning Services' report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Director of Community and Planning Services, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Item **1.1**

Reg. No. **9/2015/0440/F**

Applicant:
Mr Rory Mulroe
2 Freesia Close
Loughborough
LE11 2FD

Agent:
Mr Rory Mulroe
2 Freesia Close
Loughborough
Leicestershire
LE11 2FD

Proposal: **THE ERECTION OF A LOG CABIN TO BE USED FOR**
HOLIDAY LETTINGS ON LAND AT SK3221 7095
TICKNALL ROAD HARTSHORNE SWADLINCOTE

Ward: **Woodville**

Valid Date: **15/06/2015**

Reason for committee determination

The application is reported to Committee at the request of Councillor Mrs Coe because of local concern that has been expressed about a particular issue and the unusual site circumstances that should be considered by the committee.

Site Description

The site is located on Ticknall Road to the north of Hartshorne and within maturing National Forest woodland. The site is located within the open countryside and is accessible by the existing track to Buildings Farm, also a public by-way. The land falls away to the south.

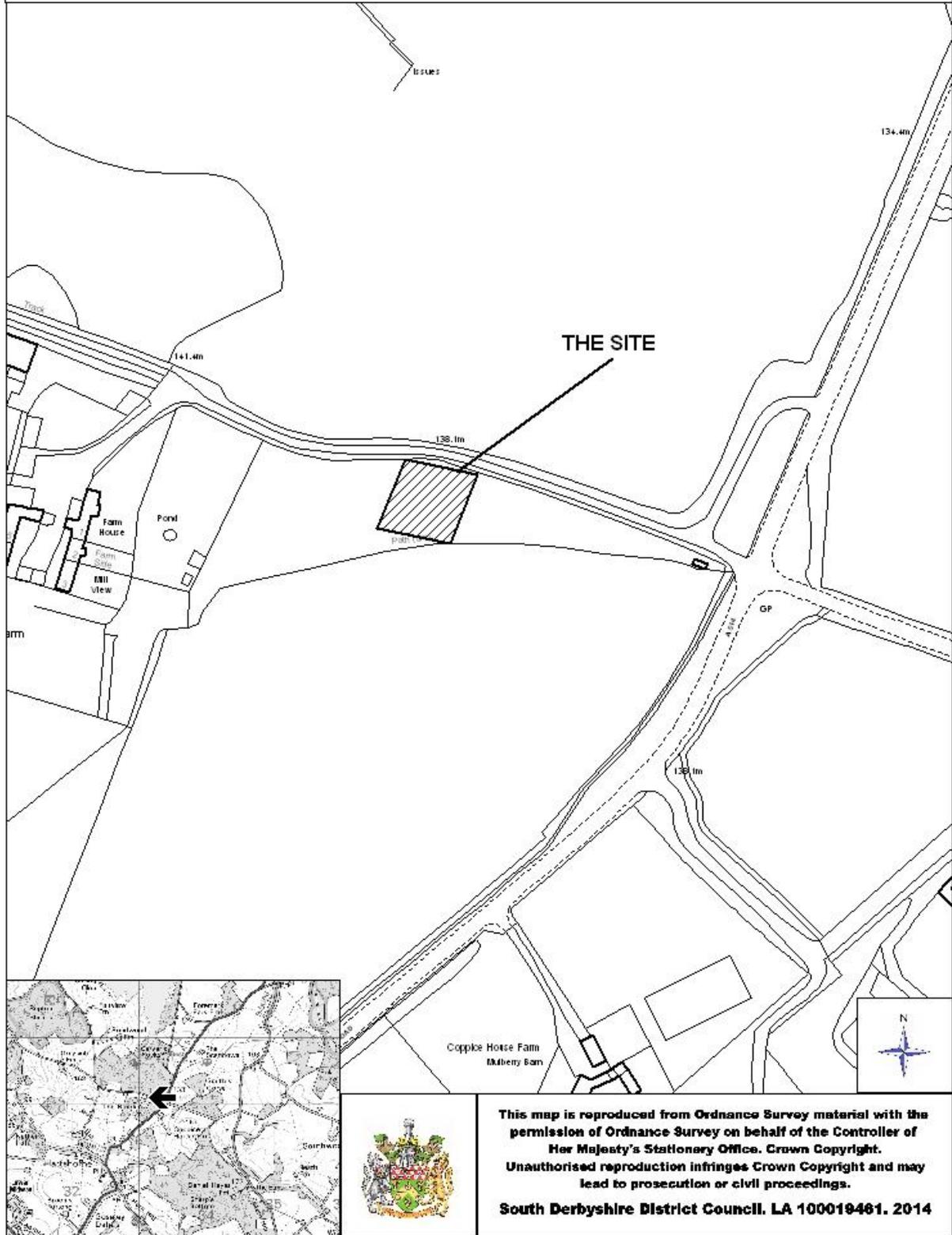
Proposal

The application seeks permission to erect a log cabin for the use as a holiday let, using the access to Buildings Farm. A small section of hedgerow would be removed to facilitate access whilst some trees would also be affected.

Applicant's supporting information

An Arboricultural Implications Assessment notes the development would result in tree loss and a landscaping plan should be drawn up which should incorporate new planting of sympathetic trees. In order to ensure long term survival of trees, root protection of the trees is required. As the surrounding trees mature, this will impact on the amount of light that will get to the property and affect the quality of life of the occupants.

9/2015/0440 - LAND AT TICKNALL ROAD, HARTSHORNE



There is no relevant planning history.

Responses to Consultations

The Contaminated Land Officer does not have significant concerns with regard to contaminated land. However, the site is adjacent to an area of unknown filled ground linked to the historic infilling of a former quarry site and therefore, development could be at risk from ground gas migration and ingress into the log cabin. Therefore, it is recommended that if planning permission were to be granted, it should be subject to a condition.

The Tree Officer notes that the site is surrounded by newly planted woodland under the National Forest Grant Scheme. As the area where the proposed log cabin would be situated is already cleared of trees, there are no objections to the siting.

Severn Trent has no objections.

The County Highways Authority has confirmed that the proposed access could be acceptable through the use of a planning condition that would stipulate that the proposed access must be created within three months, subject to planning permission being forthcoming.

The National Forest Company considers that the erection of a log cabin within the planted area would be complementary to the creation of the National Forest and would add to the tourism offer, but that the loss of trees should be kept to a minimum. The National Forest Company requests that a landscaping condition is imposed which would require replacement tree and shrub planting to be undertaken. A further condition should also be imposed to ensure that the building is only used as a holiday let.

Responses to Publicity

There have been six comments received from local residents raising the following issues:

- a) the volume of traffic associated and that the farm tracks need to be taken into consideration;
- b) there is a logging business and a livery business, and the existing access cannot take any further traffic;
- c) the current access is at present; hazardous and the original highways concerns have not been addressed;
- d) the plans would encourage further use of the access road for parking due to the parking provision;
- e) the proposed log cabin would be used for permanent residential accommodation;
- f) this development would set a precedent for more cabins;
- g) there could be a tendency for retrospective permission to be granted in the vicinity;

- h) the field is much lower down the right way and where it is proposed to have more traffic coming out is a hazard, especially due to the logging business;
- i) there are no provision for services (i.e. waste disposal, sewerage and electricity); and
- j) insufficient notice has been given and not all neighbours in the vicinity have received a letter.

Development Plan Policies

The relevant policies are:

- 1998 Local Plan (saved policies): Environment Policies 1 and 9.
- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF8 (The National Forest) and INF10 (Tourism Development).

National Guidance

National Planning Policy Framework (NPPF), relevant paragraphs include:

- Paras 6-10 (Achieving Sustainable Development)
- Paras 11-14 (The Presumption in Favour of Sustainable Development)
- Para 17 (Core Principles)
- Para 28 (Supporting a Prosperous Rural Economy)
- Para 32 (Safe and Suitable Access)
- Chapter 7 (Requiring Good Design)
- Paras 118-123 (Natural Environments)
- Paras 186-187 (Decision Taking)
- Paras 203 & 206 (Planning Conditions)

Planning Practice Guidance (PPG)

Local Guidance

- The National Forest Strategy 2014 – 2024 (NFS).

Planning Considerations

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

- Principle of development and visual impact;
- Access to the site; and
- Other issues

Planning Assessment

Principle of development and visual impact

The siting of a log cabin amongst the existing planting would be broadly acceptable in that the tourism use would be complementary to the National Forest and has the broad support of the National Forest Company. The proposed log cabin would be for the purposes of tourism in connection with the open countryside and the National Forest. Policy INF10 of the Local Plan Part 1 and the NPPF support sustainable rural tourism and leisure development, and it would benefit businesses and communities in rural areas.

Emerging policy BNE4 relates to landscape character and local distinctiveness and requires new development to retain key valued landscape components such as trees and hedgerows. Therefore, new planting and landscape management would be required. Paragraphs 17 and 109 of the NPPF state that the intrinsic character and beauty of the countryside should be recognised, protected and enhanced. The site of the proposed log cabin is on an existing clearing. Therefore, the siting of the proposed log cabin would not result in the removal of significant numbers of trees whilst being situated amongst existing planting and screened from the wider area. The impact of the proposed log cabin would therefore be minimised in terms of visual intrusion into the countryside and would be of a design and scale that would be well integrated with its surroundings, complying with policies EV1, INF8 and INF10.

Access to the site

The County Highways Authority has confirmed that the proposed access would be acceptable through the use of a planning condition that would stipulate that the proposed access must be created within three months, subject to planning permission being forthcoming. This would allow a safe and suitable access to accommodate the site and would be consistent with policies S6 and INF2 of the Local Plan Part 1.

Other issues

Whilst concerns have been raised with regard to the possibility of further cabins being erected in the future or the proposed cabin being used as a separate residential unit, these instances could be controlled through the use of planning conditions or would require planning permission in their own right. Therefore, this would not be sufficient reason to withhold permission.

Matters of drainage and land contamination can be addressed by way of conditions.

Conclusion

On the basis of the information that has been submitted, it would appear that the erection of the log cabin would assist in creating tourism accommodation opportunity in the National Forest Area and would be positioned so as to create as little impact on the countryside as possible – being positioned within a semi-mature wooded area and constructed in sympathetic materials. The existing issues with the proposed

access could be overcome by the use of a planning condition that would relocate the existing access to a more suitable location.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the amended Layout Plan and Proposed Building Rev4.3 drawing unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

3. Notwithstanding the provisions of Part C Class 3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, (or any Order(s) revoking or re-enacting either or both Order(s)); the log cabin hereby permitted shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the Local Planning Authority, and:

i. the log cabin shall not be occupied as a person's sole, or main place of residence;

ii. the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and it shall not be re-occupied by the same person(s) within 3 months following the end of that period;

iii. the site operator shall maintain an up-to-date register of the names of all occupiers of the log cabin, and of their main home addresses, and shall make that information available at all reasonable times to the Local Planning Authority.

Reason: The provision of a dwelling in this location would be contrary to the Development Plan and the objectives of sustainable development.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling(s) hereby permitted shall not be altered, enlarged or extended, and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or

required by any condition attached thereto) shall be erected on the site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the nature, setting and size of the development.

5. Before any works involving the construction of the log cabin commences 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 cabin have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: In the interest of protecting the amenity of the area.

6. Prior to first occupation of the log cabin hereby permitted, the sole vehicular access to the site shall be via the access shown on the application site to Ticknall Road (A514) only.

Reason: In the interests of highway safety.

7. No ground works shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority. Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the Local Planning Authority, which meets the requirements given in Box 4 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'. Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby permitted.

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.

8. Notwithstanding the submitted details, prior to the commencement of development the position of the three silver birch trees (as shown as Gp2 on Appendix 3: The Tree Location Plan) shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed.

Reason: To protect the trees/landscape areas from undue disturbance, recognising that initial ground works could cause unacceptable damage to the trees.

9. 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 or adjacent to the site (including those which would have their root or canopy structure affected), 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, recognising that initial clearance and groundworks could compromise the long term health of the trees/hedgerows affected.

10. 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.

11. No development shall commence 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, recognising that initial works to set levels will need to account for means of drainage.

12. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015, the log cabin shall not be occupied 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 treatments shall be completed in accordance with the approved details before the development is occupied.

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

13. Prior to development 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, recognising that initial ground works will have an influence on acceptable levels for the development.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is

encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

Item 1.2

Reg. No. 9/2015/0893/FM

Applicant:
Mr Mark Goodwin
75 Derby Road
Hilton
DE65 5FG

Agent:
Mr Mark Pringle
Making Plans Architecture
Ivy Lodge
5 Twyford Road
Willington
DE65 6DE

Proposal: THE ERECTION OF A DETACHED BUNGALOW AND A GARAGE AT 49 EGGINTON ROAD HILTON DERBY

Ward: HILTON

Valid Date: 23/09/2015

Members will recall this application was deferred from the May 2016 committee in order for a Member site visit to be undertaken. The report remains as it appeared on the agenda for the May committee; however, an additional letter of objection has been referenced which appears within the report in italics. The report has also been updated to reflect the new changes to the development plan status.

Reason for committee determination

Councillor Mrs Plenderleith has requested that this application be brought to Committee as local concern has been expressed about a particular issue.

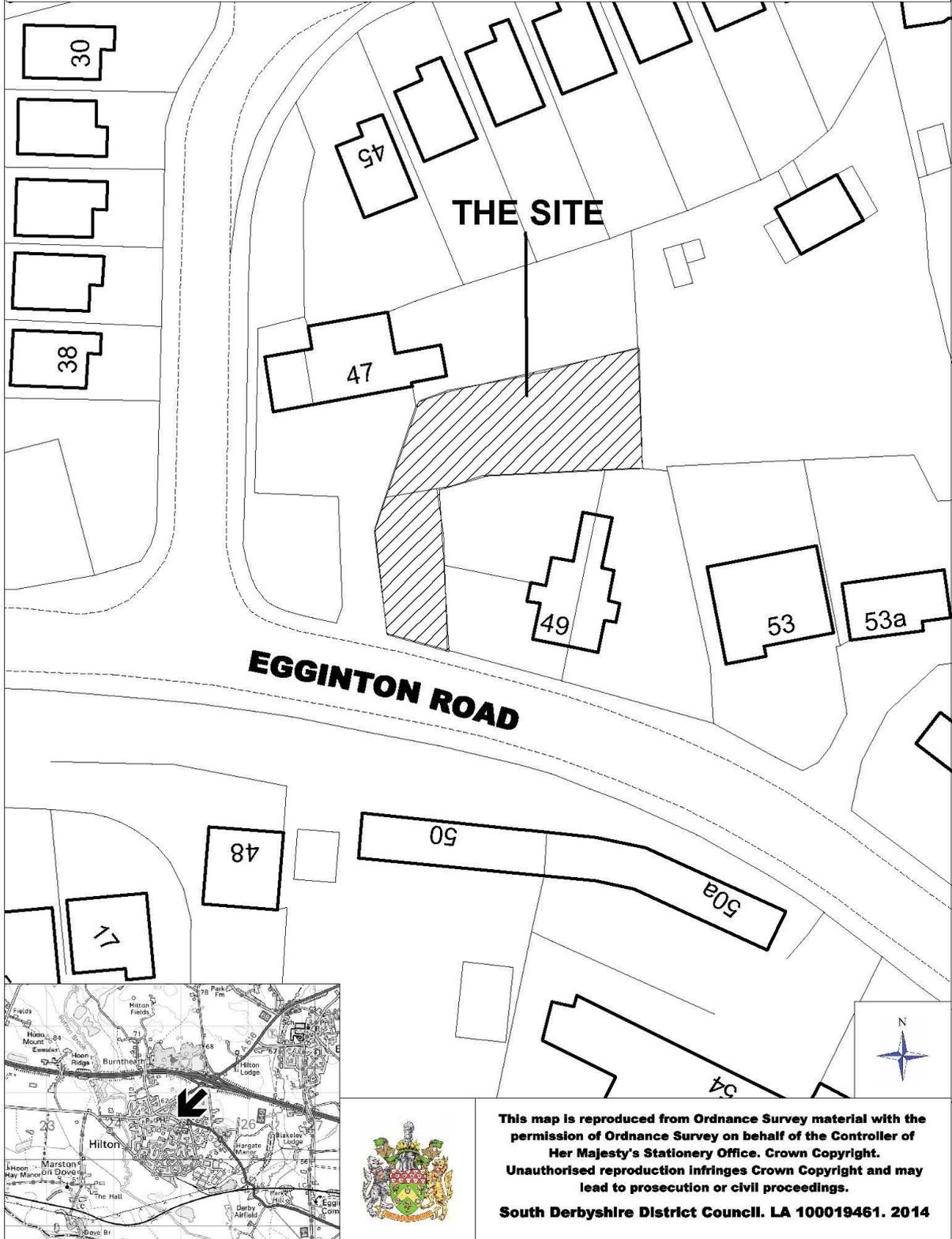
Site Description

The application site is an area of garden which is located at the rear of 49 Egginton Road and would be accessed from Egginton Road with a garage erected adjoining a garage already approved in connection with an extension at 49 Egginton Road to create a double garage. The site is relatively level and has recently been cleared. The site lies south of properties on Willowfields and immediately to the south of the rear garden of an adjacent property to the north-west, 47 Egginton Road. The site lies within the village development boundary and is in a residential area.

Proposal

The application is in full and the proposals were amended during the consideration of the application and are to erect a bungalow on the site comprising a hall, a joint lounge/kitchen/dining room, 3 bedrooms and a bathroom. Access would be accessed via Egginton Road with parking in a garage which would adjoin a recently

9/2015/0893 - 49 EGGINTON ROAD, HILTON, DE65 5FG



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approved garage to serve the existing property, 49 Egginton Road, to create a double garage on the front with the bungalow then set at the rear with modest rear garden.

Planning History

- 9/2014/0580 Outline application for the erection of a new bungalow and detached garage with access for approval now and all other matters reserved for future approval – Approved 14-Aug-2014.
- 9/2014/0837 The erection of extensions and garage and alterations to vehicular access – Approved 04-Nov-14.

Responses to Consultations

The County Highway Authority has no objection subject to conditions relating to visibility splays, access being modified first, two parking spaces being provided and any gates being set 5m into the site. Informatives are also requested.

Responses to Publicity

Three letters of objection received on the original plans and a further two letters on the amended plans which can be summarised by the following points:-

- a) Will a fence be erected around the whole of the property as we had a summerhouse which has now gone and a 5ft wall?
- b) It is sad that the older part of the village is slowly vanishing and dominated by new estates – our property dates back to 1897 and is one of the oldest.
- c) The existing mixed hedge borders 47 & 49 Egginton Road.
- d) The size of the bungalow has increased from that shown on the outline and is now closer to my property infringing on light to 47 Egginton Road.
- e) It will box in my property.
- f) It will dominate and loom over my property and garden.
- g) It is 3 bedrooms, not two.
- h) The hedge is not conifer or evergreen, is in parts lower than 2m meaning views can be taken through it and they have destroyed the fence at the fence at the bottom of my garden.
- i) Clearing the site has exposed the roots of the hedge.
- j) It is too big for the plot.
- k) There is no need for this development.
- l) It will affect privacy of neighbours.
- m) The toilet window will face the living area of the adjacent property which affects privacy.
- n) There will be no turning space leading to reversing on or off onto a busy road, close to a junction causing an obstruction.
- o) *Both the existing and proposed dwellings would have small gardens for what are family homes, out of keeping with the surrounding properties in this rural village location. They will live on top of each other with no privacy.*
- p) *A huge brick wall will run the length of my garden which I would see from my kitchen and lounge.*

- q) *My sitting room will be opposite a bathroom which will whilst frosted will still enable us to view activity in there.*
- r) *There is a hedge on the boundary and the development will cut into it and no discussion has taken place with us.*
- s) *Perhaps the applicant could look locating the new property at the side of 49.*
- t) *It is a shame to squeeze in houses on tiny plots and it will be out of character with the surroundings.*

Development Plan Policies

The relevant policies are:

- 1998 Local Plan (saved policies): Environment Policies 1 and 8; Housing Policies 5 and 11.
- 2016 Local Plan Part 1: S2, H5, H11, SD1, SD4, BNE1, INF2

National Guidance

- National Planning Policy Framework (NPPF) Para 11-14 (The Presumption in favour of sustainable development), Para 17 (Core Principles), Chapter 6 (Housing), Chapter 7 (Requiring good design), Paras 186 & 187 (Decision-taking), Para 196 & 197 (Determining applications), Paras 203-206 (Planning conditions and obligations).
- Planning *Practice* Guidance (PPG)

Local Guidance

- SPG Housing, Design and Layout

Planning Considerations

Whilst this application is not a reserved matters application in relation to the existing, extant outline permission, that outline approval sets a precedent for the principle of erecting a dwelling on the site. As such the main issues central to the determination of this application are:

- Design and layout
- Highway safety, and
- Impact on neighbours

Planning Assessment

Design and layout

The proposal would provide a vehicular access from Egginton Road with a garage on the frontage adjoining a recently approved garage to serve the existing property, 49 Egginton Road. Pedestrian access would then be provided to the bungalow which is proposed to be at the rear. In terms of the character of the area there are a mix of house styles and designs in the locality and the garage would create frontage buildings with the bungalow behind but screened to some extent by the garage

which itself would consolidate the appearance of the frontage of this part of the street. The bungalow is of modest scale but even so has details in the building to add interest to it. The NPPF at paragraph 64 states that permission should be refused for development of poor design that fails to take opportunities for improving character and quality of an area. The stance is echoed in Saved Local Plan Policy H5 which requires development to be in keeping with the scale and character of the settlement and *Local Plan Part 1 Policy BNE1* which states, amongst other things, that all new development will be expected to be well designed, embrace the principles of sustainable development, encourage healthy lifestyles, enhance people's quality of life as well as being visually attractive and appropriate. In this case the principle of providing a dwelling in this location would create an acceptable form of development that would not be detrimental to the overall visual amenity of the area and the design achieves an acceptable development. As such in design/character terms the proposal is considered to accord with the requirements of the NPPF.

Highway safety

In terms of highway safety it is noted that Egginton Road is a busy, classified road, with the junction of Willowfields close by to the west and as such the proposal needs to be appropriate to this location. The scheme would result in an overall increase in the comings and goings and in order to come to a view on highway safety the opinion of the County Highway Authority has been sought. In their reply they have stated that they do not object subject to the conditions. In policy terms it is noted that the NPPF at paragraph 32 states, amongst other things, that safe and suitable access to the site can be achieved for all people; and development should only be prevented or refused on transport grounds where the impacts of development are severe. *Policy INF2 of the Local Plan Part 1* states, amongst other things, that planning permission will be granted for development there is no undue detrimental impact upon highway safety. Examining the proposal it is clear that whilst the proposal will increase comings and goings, and in view of the fact that outline permission is already in place with access agreed in this location and with these general arrangements, it is considered that the proposal would not be contrary to the policy or paragraph 32 of the NPPF and therefore the proposal is considered to be acceptable in terms of highway safety.

Impact on neighbours

Saved Housing Policy 11 of the adopted South Derbyshire Local Plan states, amongst other things, that new housing will be permitted provided that the development provides reasonable amenities in terms of light, air and privacy for existing and new dwellings. *Local Plan Part 1 Policy SD1* states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.

This approach is complemented and supported by the aims of the Council's adopted Supplementary Planning Guidance "Housing Design and Layout" which seeks to achieve a reasonable level of amenity for occupants of existing and new dwellings and states that new single storey dwellings will be considered in terms of their effect on existing dwellings, on their merits. Furthermore, one of the core principles of the

National Planning Policy Framework (NPPF), as set out in para. 17, is to secure a good standard of amenity for all existing and future occupants of land and buildings.

As the proposal would be single storey and no main habitable rooms would be provided on the southern elevation, the proposed dwelling, if approved, would not result in any undue impact on the amenity of the occupiers of the existing property, 49 Egginton Road, or the property to the east, 51 Egginton Road due to the distance to that property. The only other impact would be on the amenity of the occupiers of the property to the north, 47 Egginton Road, as the proposed bungalow would lie immediately south of most of the length of their main garden area. 47 Egginton Road also has main habitable room windows in the east and southern elevations. However, those windows are at ground floor and can be adequately screened by fencing and there is an existing hedge on that boundary which provides some screening. The layout and design is not considered to result in any undue adverse impacts on the level of amenity that the occupiers of that dwelling could reasonably expect to enjoy.

Conclusion

The site lies within the village development boundary, would be provided with an appropriate access and adequate parking, is of an acceptable design without having any undue impact on the amenity of neighbours and as such is considered to be acceptable and would therefore be in line with current policy.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the revised drawings received by the Local Planning Authority on 16th February 2016 unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt.
3. The dwelling shall not be occupied until a detailed scheme for the boundary treatment of the site, including position, design and materials, and to include all boundaries or divisions within the site, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the dwelling is first occupied or such other timetable as may first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity to to protect the amenity of neighbours.

4. No development shall commence until details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels have been first 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, recognising that initial ground works can set the benchmark for final levels for construction purposes.

5. Notwithstanding the submitted details, no development involving the construction of the dwelling hereby approved shall commence until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building and all hardsurfaced areas have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

6. Before any works involving the construction of the new dwelling commences, the entire site frontage for a distance 2m back from the highway boundary, shall be cleared of, and subsequently maintained throughout the lifetime of the development clear of, any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

7. Before any works involving the construction of the new dwelling commences the access shall be modified, laid out and surfaced to base course in accordance with the approved plans.

Reason: In the interests of highway safety.

8. Prior to the occupation of the dwelling hereby permitted the off street car parking spaces, including the space in the garage, shown on the approved plans, shall be provided and the spaces shall then be retained for their intended use throughout the lifetime of the development.

Reason: In the interests of highway safety.

9. Notwithstanding the provisions of the Town and Country Planning Act (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), any gates or other barriers to the vehicular access shall be set back a distance of 5 metres from the highway boundary and shall be hung so as to open inwards only.

Reason: In the interests of highway safety.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling hereby permitted

shall not be altered externally, enlarged, extended or provided with ancillary outbuildings without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

Informatives:

- a. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.
- b. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.
- c. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- d. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal and to overcome planning issues. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item 1.3

Reg. No. 9/2015/1199/FM

Applicant:
Mr Boudewijn Tuinenburg
Beech House
35 Burton Road
Repton
Derby
DE65 6FN

Agent:
Mr Bob Moxon
Nicolas Tye Architects
1st Floor
2 Snow Hill
Birmingham
B4 6GA

Proposal: **DEMOLITION OF EXISTING HOUSE AND THE
ERECTION OF A 4 BEDROOM REPLACEMENT
DWELLING AT BEECH HOUSE 35 BURTON ROAD
REPTON DERBY**

Ward: **Repton**

Valid Date: **05/02/2016**

This application is to be considered jointly with application 9/2016/0135 below.

Reason for committee determination

The item is presented to Committee at the request of Councillor Stanton as local concern has been expressed about a particular issue and there are unusual site circumstances that should be considered by the Committee. He states also that the Parish Council is disturbed by the effect on village design.

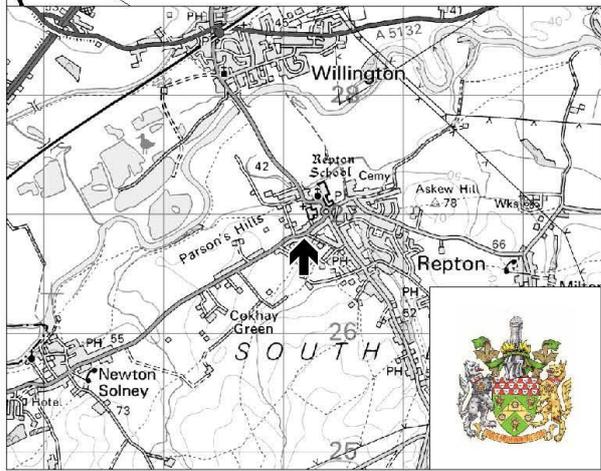
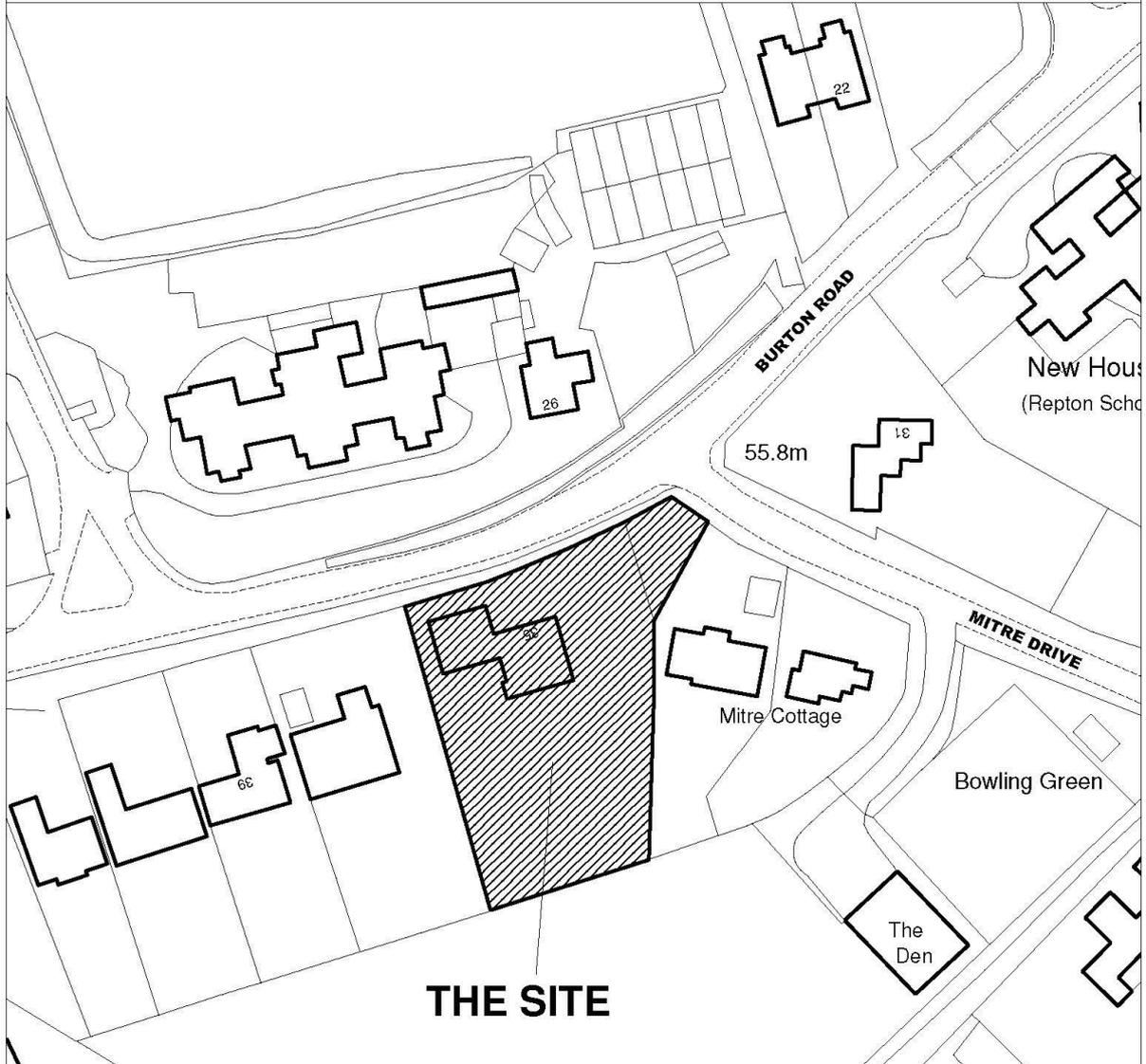
Site Description

The site is opposite Repton Music School on Burton Road, just west of the Mitre Drive access, within Repton Conservation Area. The site's Burton Road frontage is a steep bank with trees and hedging screening the existing property. The land level of the property is approximately 2.7-2.9m higher than the road level and the most prominent view of the dwelling is its end gable when viewed from the driveway when travelling west towards Newton Solney. The existing dwelling is set 6m back from the road with the integral garage nearest this boundary. It is an arts and craft style house but probably built in the early 1950s, two storeys, rendered with a steeply pitched roof and an external brick chimney stack on the end gable visible from the drive.

Proposal

Planning permission is sought for a replacement dwelling of a contemporary design which is bespoke and high quality. The proposed dwelling is two storey with a flat

9/2015/1199 - Beech House, 35 Burton Road, Repton, Derby DE65 6FN



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roof with single storey elements extending to the north, south and east with sedum green roofs. The dwelling would have 5 bedrooms, a double garage and a basement for a gym and TV room/ games room. The front and rear elevations would be mainly glazed with sections of naturally weathered timber, naturally weathered metal cladding and perforated shutters on the first floor. The first floor would overhang the ground floor with a concrete feature wall running the length of the ground floor.

Applicant's supporting information

The Design and Access Statement introduces the Architects and outlines their portfolio and awards. It includes a site assessment of aerial photos and photos of the site and surrounding area and photos of similar contemporary dwellings. The document describes the design, landscape context and materials and includes 3D images of the proposed dwelling in situ.

The Heritage Statement outlines the planning policy, describes the historic context of Repton and its evolution over time including historic OS maps. It discusses the Repton Conservation Area Character Statement and provides photos of the styles of houses and buildings within the vicinity. It considers that the detailing and composition of the existing property is not of the same quality as the adjacent Parker and Unwin property at 31 Burton Road. The report states that the reality in this regard is that the original building has been very heavily extended and that the internal layout of the house and its external appearance have been dramatically altered by phases of ad hoc alterations which are of poor architectural quality. The reports concludes that the proposal would result in the replacement of a derivative, damaged and degraded building which is of no individual significance with a new dwelling which is of sophisticated contemporary design and which has been designed by architects of acknowledged national quality. It is considered that the proposed new building will be of much greater architectural quality than the existing dwelling and the proposed development would be of net positive benefit to the character and appearance of the designated Conservation Area.

Planning History

9/2014/1118 The erection of extensions and detached outbuildings, Granted 19/1/15

9/2011/0121 The felling of 7 Prunus Domestica (Damson) trees, Granted 24/3/11

9/2006/1302 The felling and pruning of trees, Granted 3/1/07

Responses to Consultations

The County Highways Authority has no objection on the basis that there is no alteration to the existing access and recommends a condition in relation to provision of a parking and manoeuvring area.

Historic England has no comment.

The Conservation Officer notes that the original dwelling's level of contribution to the Conservation Area has been reduced by extensions and alterations and has such its loss would result in less than substantial harm to the significance of Repton Conservation Area as a heritage asset. The new dwelling is considered to be contemporary and high quality and would make a positive contribution to the Conservation Area. Further information regarding the gate/bin store and landscaping on the bank is requested.

The Tree Officer concurs with the recommendations of the report and considers that three Copper Beach trees along the western boundary and a Yew tree on the front boundary have high amenity value and should be protected by a TPO. The submitted Arboricultural Method Statement and Tree Protection Plan are considered acceptable and indicate that the dwelling can be constructed without harming the protected trees.

The Contaminated Land Officer has no comments to make.

Derbyshire Wildlife Trust considers that sufficient information in relation to bats has been submitted. Further nocturnal surveys were undertaken throughout May 2016 and identified common and soprano pipistrelle bats emerging from the building. Conditions in respect of obtaining a Natural England Licence, submission of a lighting strategy, mitigation recommendations followed and habitat protection measures are recommended.

Responses to Publicity

Repton Parish Council considers the design of the proposed property, which is located within the Conservation Area, is out of character with the area and is not in keeping with the Village Design Statement.

One objection has been received, raising the concern that the proposed dwelling would change the architectural look of the area and if all similar properties were to be replaced the character of this part of Repton would be altered.

One letter of support has been received from a nearby resident which is summarised as follows: The development is considered to be of the highest design quality and would have a dramatic, positive impact on the character and appearance of the village, including that of the Conservation Area. The existing house itself contributes little to the character and appearance of the conservation area, being set back from street level amongst significant tree cover. The retention of the vast majority of tree cover as part of the proposals would ensure that this scheme would be a 'hidden gem'; it is not a prominent or gateway site and the modern, striking design would assimilate well into this verdant setting.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: H1, SD1, BNE1, BNE2 and INF2;
- 1998 Local Plan (saved policies): H5, EV9 and EV12.

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: SDT1, BNE8 and BNE11.

National Guidance

- National Planning Policy Framework (NPPF) 7, 14, 17, 49, 56, 57, 58, 60, 63, 65, 118, 128, 129, 134, 138
- Planning Practice Guidance (PPG)

Local Guidance

- SPG Housing Design and Layout;
- SPG Trees and Development.

Planning Considerations

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

- Principle of demolition
- Design and impact on the Conservation Area
- Residential Amenity
- Ecology
- Highways

Planning Assessment

Principle of Demolition

In relation to the principle of a replacement dwelling, the site is located within the village settlement boundary where Saved Policy H5 requires development to be in keeping with the scale and character of the settlement. Emerging Policy SDT1 states development will be permitted within defined settlement boundaries if it is in accordance with the Development Plan. Saved Policy EV12 relates to Conservation Areas and states that the demolition of an unlisted building in a conservation area would not be acceptable if it had an adverse impact on the character or appearance of the area. Policy BNE2 requires development that affects heritage assets to protect, conserve and enhance the assets and their setting.

The existing dwelling is a large 1950s detached arts and crafts style house of white render set in a generous plot. It is 2.7 – 2.9m higher than the road level and has extensive tree screening on the road frontage. The original dwelling appears well proportioned however a number of later extensions have been added which do not reflect the architectural qualities of the original. In January 2015 permission was granted for contemporary extensions to the front and rear with a detached garage and outbuildings in the south western part of the rear garden. These additions were considered acceptable due to their contemporary and visually contrasting nature.

It is noted in the Repton Conservation Area Character Statement that this part of Burton Road makes a positive contribution to the character of the area and has the feel of a garden suburb. When assessing the impact on the Conservation Area, the Planning (Listed Buildings and Conservation Area) Act 1990 requires that the Local Authority aims to preserve or enhance the character of the area. On examination of the building it can be seen that it reflects and responds to the surrounding architecture of the arts and crafts style and is located within a substantial plot. It is acknowledged therefore that the site as a whole and the building within the plot make a positive contribution to the character of the Conservation Area. Of particular importance is the view up the drive of the side elevation which currently highlights the chimney against the rendered gable.

However, the original building has been extended and altered detrimentally and as such it does not make the level of positive contribution that some of the other buildings within the conservation area do. Taking into account the Repton Conservation Area as a whole its loss would result in less than substantial harm to the significance of the heritage asset. Therefore the NPPF in paragraph 134 requires that the proposals would need to be weighed against the public benefits of the proposed scheme.

Design and impact on the Conservation Area

Paragraph 56 of the NPPF states that the Government attaches great importance to the design of the built environment and considers good design to be a key aspect of sustainable development. Decisions should aim to ensure that developments *“respond to local character and history, and reflect the identity of local surroundings and materials while not preventing or discouraging appropriate innovation”* (p58). The framework goes on to add that planning decisions *“should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or imitative through unsubstantiated requirements to conform to certain development forms or styles”* (p60).

The Repton Village Design Statement is not a statutory document and as such does not form planning policy. However, that said, parts of the document do reiterate national and local planning policy. For example the following ‘Building Guidelines’:

“New developments and alterations in the Conservation Area should reflect and enhance those elements that contribute to its character.

New developments and alterations should respect and enhance the character and form of their immediate environment and surroundings”.

It is a matter of judgement as to whether the proposal complies with these requirements, however, the national policy discussed above does allow for high quality innovative design.

The design of the replacement building by a notable firm of architects is contemporary, bespoke and of a high quality. The simple pallet of materials reflects and responds to the built environment within Repton. It is considered to be of a suitable high quality architectural response for the Conservation Area and would add to the architectural interest within Repton and wider South Derbyshire. As such it is considered to be acceptable in principle as it would make a positive contribution to the built environment of the district. Given that the Repton Conservation Area has a

wide range of buildings from many periods dating from the Saxon elements of the church forward to contemporary buildings at the school, this mix of architecture could add to the special character of the village. It is thus considered to preserve and enhance the character of the Conservation Area in accordance with policy BNE2, emerging BNE11, saved policy ENV12 and NPPF paragraph 134.

It is considered that due to the topography, modern infill dwelling and mature planting the proposal would not harm the setting of the adjacent listed building at 31 Burton Road and thus complies with saved policy EV13, policy BNE2 and the Framework.

Residential Amenity

The neighbouring properties of Chestnut House to the east and 37 Burton Road to the west are set in spacious plots with blank gables and 2.5m hedging screening the boundaries. Chestnut House is set an angle, but the 45 degree angle taken from the nearest rear window would not be encroached upon by the single storey swimming pool part. Privacy is retained for both the existing and proposed dwellings due to the design with blank elevations at first floor level on the side elevations. Full height glazing at the ground floor level is proposed adjacent to the western boundary but this would be 6.5m from the boundary, adjacent to the blank gable of No.37 and screened by hedging.

First floor walkways are proposed to the front and rear of the property which are shown screened at the sides by the metal cladding to avoid any views over neighbouring gardens. The perforated metal screens would be used to retain the privacy of occupants and protect the glazing from the weather. Thus, the proposal is not considered to have an adverse impact on the residential amenity of neighbouring properties and as such is in accordance with Policy SD1 and paragraph 17 of the Framework.

Ecology

The daytime bat survey identified the presence of a whiskered bat roost within the residential house and identified the garage as having moderate potential to support roosting bats. Further nocturnal surveys were undertaken throughout May 2016 and identified common and soprano pipistrelle bats emerging from the building. Derbyshire Wildlife Trust advises that sufficient evidence has been provided and conditions are recommended. They also advise that as the proposal would result in the disturbance of a European Protected Species and the destruction of a resting place; demonstration of how the three tests set out at Regulation 53 of the Conservation of Habitats and Species Regulations 2010 have been taken into account are required - stating the evidence for conclusions drawn on each test as to whether the test can be met. The three tests set out within Regulation 53 are as follows:

- (i) The action will be undertaken for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial

consequences of primary importance for the environment (Regulation 53(2)(e):

The proposed dwelling would be more environmentally friendly and would surpass current building regulation standards and be of the highest construction standards, having an airtight and highly insulated building envelope and being heated by air source heat pump. Green roofs would add to the biodiversity of the site.

(ii) That there is no satisfactory alternative (Regulation 53(9)(a):

Not in this case, a replacement dwelling is more viable than completion of the extant extensions approved at the property.

(iii) That the action will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range (Regulation 53(9))(b)

The applicant's ecologist has considered the test and considers that taken collectively and applying the guidelines of Natural England (Mitchell-Jones, 2004), the conservation significance of the roost site is low-moderate, based on 'small number of common and rare species (common pipistrelle, soprano pipistrelle and whiskered bat)' and that it is not a maternity roost. The following mitigation/compensation requirement is recommended: 'provision of new roost facilities where possible, needing not to be exactly like-for-like but should be suitable, based on the species' requirements'. Therefore, the following mitigation/compensation plan should be adhered to:

- a. Pre-start survey preceding start of works to identify any changes in roost status and confirm the location of roosting bats;
- b. Supervised removal of roof materials by a licensed ecologist, any bats discovered during the works to be relocated by the ecologist to pre-erected receptor bat boxes;
- c. Replacement roost facilities to be provided within the land ownership of 35 Burton Road (Beech House); and
- d. Any artificial lighting of the developed site at night to be minimal and low-level. Illumination of the mature trees to be specifically prevented to avoid impacts on foraging bats.

Based on the above, it is not considered that the works at 35 Burton Road would be detrimental to the 'favourable conservation status' of a protected species.

Highways and Trees

As the proposal does not involve any change to the access to the property the Highways Authority has no objections. The bin store has been relocated to the rear of the garage.

On inspection, four trees to the front and western boundaries of the site were considered worthy of protection and as such a TPO has been made to cover a Yew

and 3 Copper Beeches. Since the TPO has been made, the agent has submitted a Tree Protection Plan and Arboricultural Method Statement which demonstrates that the dwelling can be constructed without damaging these trees in accordance with saved policy EV9, policy BNE1, emerging policy BNE8 and NPPF paragraph 118.

Conclusion

The main issue in relation to this proposal is whether the less than substantial harm to the significance of the heritage asset (Repton Conservation Area) is outweighed by the positive contribution the contemporary high quality designed dwelling would make to the architectural interest within Repton and the wider district. Modern buildings that make positive contributions can be acceptable in historic locations and this is one such proposal. The dwelling would not be highly prominent due to the land level difference between the dwelling and the road and it would retain tree screening on the road frontage. Innovative design is encouraged by the NPPF and the adopted Local Plan and as such this proposal is considered acceptable. There are no adverse impacts in terms of residential amenity, highway safety, trees and any impacts on protected species can be sufficiently mitigated.

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: In the interests of the amenity of the area.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing No's 1540.03.00 Rev C, 01 Rev C, 02 Rev A, 03 Rev A, 04 Rev A, 05 Rev A, 06 Rev A, 07 Rev A and 08 Rev A; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Prior to the occupation of the dwelling space shall be provided within the application site in accordance with the revised application drawing 1540.03.01 Rev A for the parking and manoeuvring of residents vehicles, laid out and surfaced. Once provided any such facility shall be maintained throughout the life of the development free from any impediment to its designated use.
Reason: In the interests of highway safety.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling hereby permitted

shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

5. Before any works involving the construction of a dwelling commences a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority, 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, recognising that initial clearance and groundworks could compromise the long term health of the trees/hedgerows affected.

6. 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.

7. 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 dwelling have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

8. The development shall be undertaken in accordance with the submitted Arboricultural Method Statement and Tree Protection Plan by Canopy Trees Ltd dated 28th April 2016.

Reason: To protect the retained trees.

9. Before any works involving the construction of a dwelling commence the specification of the glazing and external finishes of the building shall be submitted and approved in writing by the Local Planning Authority and implemented in accordance with the approved details.

Reason: In the interests of the character and appearance of the Conservation Area.

10. Before any works involving the construction of any dwelling commence a lighting strategy shall be submitted and approved in writing by the Local

Planning Authority and implemented in accordance with the approved scheme.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework. This needs to be made clear before commencing to ensure that all stages of development are considered.

11. The development shall be carried out in accordance with the mitigation measures outlined in the Focus ecology report and the population identified in the report should be maintained.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

12. Before any works involving the construction of a dwelling commence a scheme for all retained habitats shall be submitted and approved in writing by the Local Planning Authority. This shall include details of the retained trees and garden areas being protected from damage by the erection of adequate temporary protective fencing for the duration of the works in accordance with the approved scheme.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning issues and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. A Natural England European Protected Species licence should be submitted to and approved in writing by Natural England prior to commencement of works affecting bats. All works should then proceed in accordance with the approved strategy and the requirements of the licence, a copy of which should be submitted to the local planning authority, once obtained. Forms can be found at www.gov.uk/government/publications/bats-apply-for-a-mitigation-licence.

Item 1.4

Reg. No. 9/2016/0135/CC

Applicant:
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Agent:
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Nicolas Tye Architects
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B4 6GA

Proposal: **DEMOLITION OF EXISTING HOUSE AND THE
ERECTION OF A 4 BEDROOM REPLACEMENT
DWELLING AT BEECH HOUSE 35 BURTON ROAD
REPTON DERBY**

Ward: **Repton**

Valid Date: **05/02/2016**

This case is submitted in pursuit of the demolition of the existing house. The merits of the case are examined in the companion application for the redevelopment of the site under 9/2015/1199 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 No's 1540.03.00 Rev C, 01 Rev C, 02 Rev A, 03 Rev A, 04 Rev A, 05 Rev A, 06 Rev A, 07 Rev A and 08 Rev A ; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No demolition shall occur until a contract for the implementation and construction of the development approved under planning permission ref: 9/2015/1199 has been secured. If for any reason that development does then

not commence within 6 months of the demolition of the existing building, a scheme for the restoration of the land shall be submitted to and approved in writing by the Local Planning Authority. The land shall then be restored in accordance with the approved scheme within 6 months of the date of its approval or in accordance with an approved timetable of restoration.

Reason: to ensure all reasonable steps have been taken to ensure the new development will proceed after the loss within a heritage asset has occurred, in line with paragraph 136 of the NPPF.

4. The development shall be undertaken in accordance with the submitted Arboricultural Method Statement and Tree Protection Plan by Canopy Trees Ltd dated 28th April 2016.

Reason: To protect retained trees.

5. The development shall be carried out in accordance with the mitigation measures outlined in the Focus ecology report and the population identified in the report should be maintained.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

6. Before any works involving the demolition of a dwelling commence a scheme for all retained habitats shall be submitted and approved in writing by the Local Planning Authority. This shall include details of the retained trees and garden areas being protected from damage by the erection of adequate temporary protective fencing for the duration of the works in accordance with the approved scheme.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item **1.5**

Reg. No. **9/2016/0098/FM**

Applicant:
Mr Neil Martin
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Agent:
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Proposal: **THE ERECTION OF EXTENSIONS AND ALTERATIONS
TO EXISTING WORKSHOP AND GARAGE TO CREATE
A DWELLING AT LAND TO THE REAR OF 89
EGGINTON ROAD ETWALL DERBY**

Ward: **Etwall**

Valid Date: **27/01/2016**

Members will recall this application was deferred from the May 2016 committee in order for a Member site visit to be undertaken. The report remains as it appeared on the agenda for the May committee but has been updated with minor changes to reflect the changed status of the development plan.

Reason for committee determination

Councillor Brown has requested that this application be brought to Committee to debate the issues in this case which are finely balanced.

Site Description

This is a substantial original outbuilding that may have served one or both of the dwellings fronting Egginton Road, numbers 87 and 89, plus a large detached double garage/store/workshop. The outbuilding forms a part of the boundary to 3 Grove Park that lies to the east of the application site, a high boundary wall then extends from that application building for a part of the shared boundary between the application site and 3 Grove Park and then there is a hedge for the remainder of that boundary. 3 Hollies Court has a boundary fence on the southern boundary that extends adjacent to the existing garage and beyond. 87 and 89 Egginton Road have a substantial leylandii type hedge on its rear, eastern boundary in front of the outbuilding, some 5 metres high. On the application side of the boundary this hedge has been cut back to reveal the boundary fence and a Spruce tree which is protected by a preservation order lies in the rear garden of 3 Grove Park.

Proposal

The proposal is a resubmission of a previous application that was refused planning permission and for which a subsequent appeal was dismissed. The current scheme proposes a two storey extension behind the existing garage/store/workshop which would link to the existing two storey outbuilding as well as a single storey garage on the southern side of the existing two storey outbuilding. The existing garage would be converted to a kitchen/dining area linking in to the ground floor of the proposed two storey extension with a living room and reception at ground floor level, a study, shower room, lobby, guest bedroom with en-suite also at ground floor level. A new attached single garage is also proposed on the other side of the two storey outbuilding. At first floor level the existing two storey outbuilding would contain two bedrooms, both with en-suite bathrooms, with the first floor of the new two storey extension containing a landing as well as a master bedroom with en-suite and dressing room.

The main differences between the previous scheme that was refused permission and dismissed at appeal and the current scheme are that the first floor element of the two storey link extension has been relocated; the western roofslope of the two storey link extension has been hipped rather than gabled; the ground floor of the two storey link extension has been set further away from the boundary with No.3 Hollies Court; the first floor of the two storey link extension has been set further away from the boundary with No. 3 Hollies Court, even further than the ground floor (though closer to the shared rear boundary with No 3 Park Grove); the finished floor level of the two storey link extension would be set lower than previously proposed and 'dug-in'; the existing garage is proposed to have the western gabled roof replaced with a hipped roof; and rooflights have been set at 1850mm relative to first floor internal floor level.

Applicant's supporting information

The application is accompanied by a Design and Access Statement which describes the site and the buildings as well as the nature of the proposal. It explains that in the opinion of the applicant the proposals comply with the Council's adopted standards as well as planning policies and describes the nature of the development. It explains that care has been taken to redesign the proposals to further avoid overshadowing beyond that shown in the previous scheme.

Planning History

- 9/2013/0095 The change of use from workshop to a residential dwelling and the erection of a link to garage incorporating a garden room and an extension on south elevation – Approved 25-Apr-13
- 9/2013/0096 The erection of a double garage – Approved 09-Apr-13
- 9/2014/0832 The erection of extensions and alterations to existing workshop and garage to create a dwelling – Withdrawn 31-Oct-2014

9/2014/1049 The erection of extensions and alterations to existing workshop and garage to create a dwelling (resubmission of application ref: 9/2014/0832) – Refused for the following reason:

“Because of its bulk and location the proposed two-storey extension would have an over dominant and overbearing impact on adjoining dwellings, in particular No 3 Hollies Court, to the detriment of the amenity of the occupiers, thereby contrary to South Derbyshire Local Plan Saved Housing Policy 11 and the core principle in paragraph 17 of the NPPF, to seek a good standard of amenity for all existing occupants of land and buildings. Furthermore the two-storey extension, because of its bulk and form, would not be in keeping with the modest scale of the original host building, thereby contrary to Saved Housing Policy 7.”

An appeal was lodged against that refusal but the Inspector dismissed the appeal. On the first point (neighbour impact) the Inspector concluded that the proximity of what would be a substantial amount of new built form close to and along much of the rear garden boundary of No 3 Hollies Court, would represent such a significant change that it would result in an over-dominant impact on outlook. He stated that the presence of the new built form, which together with the garage to be converted would visually enclose a significant part of the rear garden of No 3, would be so imposing as to feel overbearing. As a result, he considered that the proposals would unacceptably harm the neighbours’ enjoyment of their property, especially their back garden.

On the second point (design) the Inspector concluded that the proposal would have an acceptable overall appearance and that the new two-storey extension would be sympathetic and proportionate addition to the host buildings. He stated that the proposals would be in keeping with the character and appearance of the host building and the local area.

Responses to Consultations

The County Highway Authority has no objection subject to a condition relating to visibility.

The Environmental Health Manager (Contamination) and has no objection but requests a condition relating to protection of the building from ground gas ingress and to cover any unexpected contamination.

Responses to Publicity

2 letters have been received that object to the development for the following reasons:

- a) I request a site visit be made by Planning Committee to see for themselves the very little difference between the two plans.
- b) The Design and Access Statement incredibly states the proposals are broadly similar to the single storey scheme previously approved – it is not.

- c) Discussions were had with the applicant and options explored but the applicant did not contact us about the submission and the revised scheme does not reflect our suggestions.
- d) The applicant's desire for a garden view from the bedroom result in the view from the rear of our property would be the two storey extension not the trees and sky we see now.
- e) The slight set back of 0.86m will make little difference to the impact of the extensions.
- f) The proposals would still overshadow the rear of our property.
- g) The proposals would have an impact in terms of height, mass, overshadowing and loss or privacy, unlike the approved scheme which was single storey.
- h) The two storey extension would overshadow the whole of our rear garden, being the full length of it.
- i) The size is not typical of any in the village and would be out of keeping.
- j) It is too large and too close to No. 3 Hollies Court and will overshadow my garden and obscure views from the rear of my house.
- k) The proposals would still have an overbearing effect on my neighbours property, creating a tunnelling effect and affecting light to their house and garden.
- l) The set back of 1.1m would have little effect on the visual appearance of the building from my garden.
- m) The approved plans were acceptable as they were single storey.
- n) I do not believe that a number of discussions have taken place between the applicant and the neighbour.

Etwell Parish Council reiterated its objection to the previous scheme in which it stated that the proposals would take away privacy for the surrounding properties which was reflected in condition 3 of the approved scheme. It stated that the property will be a full two storeys and will overlook surrounding properties contrary to that condition. It also stated that the two storey extension will have considerable mass and when viewed from 3 Hollies Court will overshadow the garden, reducing light particularly in winter and will increase overshadowing. It states that the appeal was dismissed by the Inspector and the revised plans do not mitigate the previous concerns of the Parish, District or Inspector.

Development Plan Policies

The relevant policies are:

- 1998 Local Plan (saved policies): Housing Policies 5 & 11.
- 2016 Local Plan Part 1: Policy BNE1.

National Guidance

- National Planning Policy Framework (NPPF).
- Planning *Practice* Guidance (PPG).

Local Guidance

- SPG 'Housing Design and Layout'

Planning Considerations

The main issues central to the determination of this application are whether the proposals have adequately addressed the previous reasons for refusal read against the appeal decision. As such the key matters are:

- Design
- The impact on the amenity of neighbours.

Planning Assessment

Design

The previous application was refused by Planning Committee and in the reason for refusal reference was made to the design of the previous proposals, stating that the two-storey extension, because of its bulk and form, would not be in keeping with the modest scale of the original host building. This matter was considered by the Inspector when considering the appeal who stated that the proposal would have an acceptable overall appearance and that the new two-storey extension would be sympathetic and proportionate addition to the host buildings. He also stated that the proposals would be in keeping with the character and appearance of the host building and the local area.

Whilst the current proposals are different from the appeal scheme they follow the same general design principles and are not so different from the appeal scheme to reasonably conclude that the design of the proposals would be inappropriate. The proposed siting, size and design of the proposed extensions and conversion, relative to the surroundings, would create an acceptable form of development that would not be detrimental to the overall visual amenity of the area. The development must be assessed on the basis of the immediate location. As such in design terms the proposals are considered to be acceptable.

The impact on the amenity of neighbours

The previous application was refused by Planning Committee and in the reason for refusal reference was made to the adverse impact on neighbours that would have resulted from the previous proposals, stating that because of its bulk and location the proposed two-storey extension would have an over dominant and overbearing impact on adjoining dwellings, in particular No 3 Hollies Court, to the detriment of the amenity of the occupiers. This matter was considered by the Inspector when considering the appeal who stated that the proximity of what would be a substantial amount of new built form close to and along much of the rear garden boundary of No 3 Hollies Court, would represent such a significant change that it would result in an over-dominant impact on outlook. He stated that the presence of the new built form, which together with the garage to be converted would visually enclose a significant part of the rear garden of No 3 Hollies Court, would be so imposing as to feel overbearing. As a result, he considered that the proposals would unacceptably harm the neighbours' enjoyment of their property, especially their back garden.

The current proposals have been amended following discussions with officers and the neighbours at No 3 Hollies Court, although agreement with the neighbours was unable to be reached. Nevertheless, a view has to be taken on whether the revisions to the proposals are considered adequate to overcome that element of the reason for refusal, taking into account the Inspector's appeal decision on the previous scheme.

The outbuilding lies in close proximity to neighbouring houses, in particular 3 Hollies Court and 2 & 3 Grove Park. Firstly, examining the impact of the conversion including new extensions on the 2 Grove Park, that interrelationship is similar to that which would have resulted from the previously approved scheme, with a single first floor bedroom window in the side, southern elevation, albeit that the bedroom has been moved further from that shared rear boundary. As such no undue impact on the amenity enjoyed by the occupiers of that property arises above that which would result from the implementation of the approved scheme.

Turning to the impact of the proposal on the occupiers of 3 Grove Park, whilst the proposed two storey extension has been moved closer to the shared boundary with that property and it would have an impact on the occupiers of that property in terms of overbearance, overshadowing and loss of light, the proposal would not have any undue impact that would be at such a level that would offend the Council's standards to justify refusal of the application. In terms of loss of privacy and overlooking there would be no first floor windows facing that property except a proposed first floor bedroom window serving the master bedroom. However, the distances between that bedroom window and the principal lounge window, principal bedroom window and conservatory of 3 Grove Park would be set at distances that comply with the standards set out in the SPG. Accordingly in terms of loss of privacy and overlooking the proposal would not result in any undue impact on the occupiers of that property to reasonably justify refusal of the application.

With regards to the impact of the development on the amenity of the property to the west, 3 Hollies Court, that property has principal kitchen and lounge windows facing the proposal as well as principal first floor bedroom windows. Those windows would face the two storey extension as well as the ground floor windows in the extended and converted outbuilding serving the reception, study, lobby and guest bedroom windows at ground floor as well as the en-suite and bedroom window at first floor level. However, in terms of the distances between these windows, the proposed development complies with the standards set out in the SPG. Whilst an objection has been received from the occupiers of No 3 Hollies Court which states that the revisions do not address their concerns or those raised by the Inspector, in terms of loss of privacy and overlooking, the proposal would not, notwithstanding the comments received, have any undue impact that would be at such a level to reasonably justify refusal of the application.

The proposed two storey extension would be further away from the boundary with No 3 Hollies Court (the property on which the impact was deemed unacceptable in the appeal decision) than the previous scheme such that the first floor element would be set between approximately 3.7m and 4.3m away from that boundary. Furthermore, the hipping of the western part of the two storey element of the link extension and the proposed hipping of the roof of the existing garage which is currently gabled and approximately 5.5m from the kitchen windows of No 3 Hollies

Court, all help to reduce the impact of the structure on the occupiers of the neighbouring dwelling. It should be noted that No 3 Hollies Court has an unconventional layout between the dwelling and its garden which results in the existing garage already lying directly in front of the principal kitchen windows and adjacent to the lounge. The existing single storey garage also forms a bulky addition to the garden boundary, behind the boundary fence. Whilst the proposals would extend the mass of the garage along the shared garden boundary the first floor element has been set further away. Whilst the proposals would still create a significant mass relative to the rear garden of that property, on balance, it is considered that the proposals have been adequately amended such that they would not create such a significant adverse impact on the amenity of the occupiers of that property in terms of overbearance to justify refusal of this scheme.

Conclusion

The proposal would result in the reuse of a traditional outbuilding for productive use in a manner that would create an acceptable form of development whilst not having any undue impact on the amenity of neighbours.

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 relates to the plans validated by the Local Planning Authority on 27th January 2016, as well as the additional plans received on 26th April 2016 and any variation to the approved drawings may need the approval of the Local Planning Authority.
Reason: For the avoidance of doubt as to what is approved.
3. Notwithstanding the details shown on the approved plans, prior to the first occupation of the dwelling hereby permitted, the windows serving the reception, study and lobby at ground floor as well as the en-suite and bedroom 3 on the western elevation of the converted outbuilding shall be permanently glazed in obscure glass in accordance with a scheme first approved in writing by the Local Planning Authority. Once installed these windows shall be permanently retained with obscure glass.
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking

and re-enacting that Order) no window or opening (other than any that may be shown on the approved drawings) shall be formed in any elevation or roofslope of the development hereby approved unless planning permission has first been granted by the Local Planning Authority.

Reason: To avoid the possibility of overlooking in the interests of preserving the amenity of residents.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), the dwelling hereby permitted shall not be extended or altered externally, have its roof enlarged or altered, be provided with a porch, incidental building or structure, or be painted externally.

Reason: In view of the form of the development, in the interests of visual amenity and to protect the amenity of neighbours.

6. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets.

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

7. 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 buildings and the character of the area.

8. 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 extensions and the making good of brickwork within the buildings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

9. No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority (LPA). Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment 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'. Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the LPA prior to the occupation of the development hereby permitted.

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.

10. 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.

11. The boundary hedgerow shall be reduced in height to a level no greater than 600mm above the adjacent carriageway channel level and shall thereafter be retained at that height throughout the lifetime of the development.

Reason: In the interests of highway safety.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. The applicant is advised that following consultation with Derbyshire Wildlife Trust, they advise that if any work is undertaken that affect the roof space, voids and/or roof tiles consideration should be given to the possibility of bats and that work should proceed with caution. If any bats or signs of bats are found work should cease immediately and advice should be sought from a professional ecologist.
- c. For 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/contaminated_land/default.asp. The administration of this application may be expedited if completion or verification evidence is also submitted to the Environmental Protection Officer (Contaminated Land) in the Environmental Health Department at: thomas.gunton@south-derbys.gov.uk.
Further guidance can be obtained from the following:
 1. CIRIA C665: Assessing the risks posed by hazardous ground gases into buildings
 2. CLR 11: Model Procedures for the Management of Contaminated Land.
 3. CLR guidance notes on Soil Guideline Values, DEFRA and EA.

4. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
5. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
6. Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
7. BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).

Item 1.6

Reg. No. 9/2016/0102/FM

Applicant:
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Proposal: THE ERECTION OF REPLACEMENT DWELLING AND ASSOCIATED ALTERATIONS AT SEALVIEW GREEN LANE OVERSEAL SWADLINCOTE

Ward: Seales

Valid Date: 29/01/2016

Reason for committee determination

The item is presented to Committee at the request of Councillor Murray as the Committee should debate the issues in the case which are finely balanced.

Site Description

The site is located on Green Lane adjacent to two public footpaths (along Sealwood Lane and Green Lane). The site is elevated with views out onto the open countryside. Green Lane consists of a strip of ribbon development which falls outside of the settlement boundary for Overseal. Green Lane mostly consists of single storey bungalows but there have been instances where a number of the existing bungalows have been demolished and replaced with one and a half storey replacements.

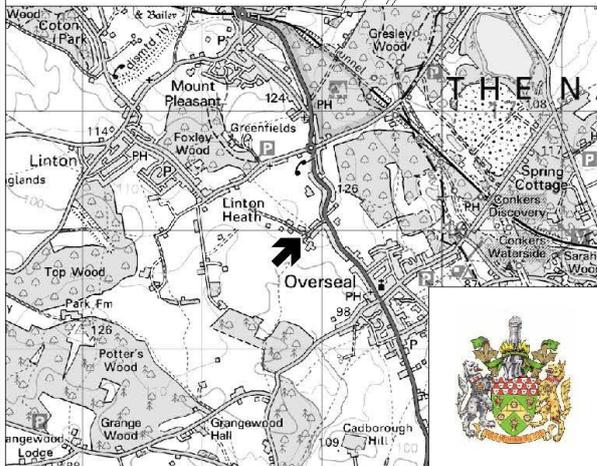
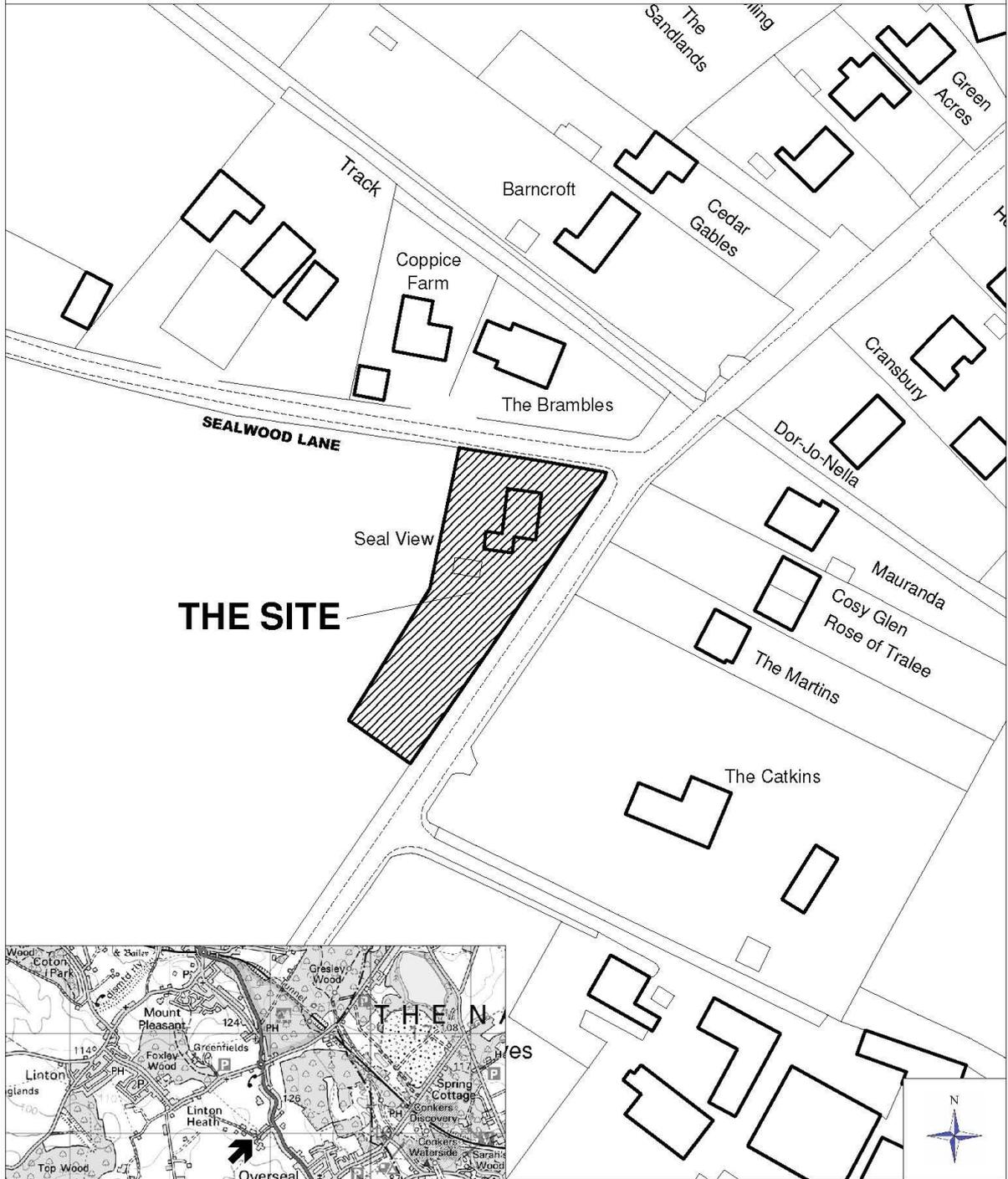
Proposal

Consent is sought to demolish the existing single storey bungalow and replace the existing dwelling with a two storey replacement dwelling and garage.

Applicant's supporting information

Design and Access Statement – The proposed development is for the replacement of an existing dwelling. Whilst the proposed dwelling would be an increase in area from the existing property, there are other examples where there are replacement dwellings which are larger than the existing dwellings, namely applications; 9/2015/0647 and 9/2015/0646. The existing bungalow has an existing finished floor

9/2016/0102 - Sealview, Green Lane, Overseal, Swadlincote DE12 6JP



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level of 11.00 based on the topographical survey. The proposed new dwelling entrance storey floor level is to be 11:60, with a road access of 9:00. The building has been designed with different room levels to break the scale and massing of the building and create interest. The proposed dwelling is to be constructed with a 3m easement from the Severn Trent sewer.

Protected Species Survey – The site is comprised of amenity grassland, disturbed soil and hardstanding. The hardstanding is of negligible ecological value and the amenity grassland is of low intrinsic ecological value. Overall the site is considered to be of a low ecological value and the proposals are not considered likely to give rise to an adverse ecological impact. There are two mature trees that are to be retained as part of the development, a mature oak (T1) and a mature holly (T2). If these trees are affected, it is recommended that the oak tree in particular is assessed for its potential to support bats. The existing building has the potential to be used for nesting by species of birds, therefore any future redevelopment should ideally avoid nesting season. Habitat creation could be carried out to compensate for the works and to enhance the site for nature and conservation and wildlife. For the proposed habitats to provide some compensation for the works it is essential that native species suitable to the local area are used for planting and that they are designed to maximise their wildlife potential.

Planning History

There is no relevant history for the site.

Responses to Consultations

The County Highways Authority has no objections to the application to the proposal subject to conditions relating to visibility splays, the re-instatement of the existing access to a grass verge and the layout of the access and parking prior to the occupation of the dwelling house.

Severn Trent has no objections to the proposal.

Natural England have no objections to the application, subject to the conditions relating to foul water drainage and that there is sufficient capacity and that surface water drainage is not directed to a mains sewer, as well as compliance with the Developer Contribution Scheme.

The Environment Agency has no comments to make regarding the application, subject to the development complying with the River Mease Development Contribution Scheme.

The Contaminated Land Officer has no objections to the proposal but notes that the site is adjacent to a significant area of unknown filled ground which could be linked to the historic infilling of a former quarry and it is therefore it is considered that the development may be at risk from ground gas migration and ingress into the proposed house. It would therefore be necessary for a suitable scheme for the prevention of ground gas ingress to be submitted to the Local Planning Authority and approved prior to the construction of the proposed dwelling.

The Coal Authority has no objections to the application.

Derbyshire Wildlife Trust considers that the assessment that has been undertaken for bats meets Government guidance within Circular 06/2005 and, as such, sufficient information regarding these protected species has been supplied to enable the Council to make an informed decision in accordance with the guidelines and to discharge its legal obligation to have regard to the requirements of the Habitats Directive. The trees and hedgerows are retained as part of the proposal and this is supported, any new landscape and planting should use native species appropriate to the corresponding landscape character. The precautionary measures outlined in section 5 of the assessment should be implemented in full as a condition of any consent.

Responses to Publicity

Overseal Parish Council does not object to the principle of a replacement dwelling on the site. However, the Parish Council is concerned about the safety of the new access and the dominance of this large house within the rural landscape.

There have been 13 letters of objection which have been received, raising the following concerns/points:

- a) Section 38 of the Planning and Compulsory Purchase Act 2004 states that development must accord with the development plan unless material considerations indicate otherwise.
- b) The proposed development would not comply with policy EV1 of the Saved Local Plan and the development is not essential to a rural based activity or unavoidable in the countryside.
- c) It is estimated that the proposal would be around 1300 cubic metres in comparison to the 250 cubic metres of the existing property. This would be over five times the volume and would “substantially exceed” the form and bulk of the original building and is contrary to policy H8.
- d) The Design and Access Statement incorrectly states that the existing property could be extended by 8m. Therefore, the test applies to the original dwelling.
- e) Despite the adoption of the Part 1 Local Plan, policies in the Saved Local Plan will be rolled forward until the adoption of the Local Plan Part 2.
- f) The dwellings on Sealwood Lane and Green Lane are predominantly single storey and are set back from the highway, with generous plot sizes and large gardens to the front.
- g) New development in the immediate area has been of a simple infilling nature and has reflected the existing character of the area.
- h) There are currently views over the existing bungalow to the countryside beyond. The height and bulk of the proposed dwelling would obscure these public views down Green Lane.
- i) The finished ground level of the development has been increased by 600mm above the existing ground level, to allow for a submerged garage which is unnecessary due to the proposed double garage and car port that is proposed.

- j) The proposed dwelling takes nothing from the local vernacular. The dwelling is not of an outstanding innovative design that could justify the development.
- k) The extent of the red line on the location plan is not deemed to be residential curtilage. Therefore, the problem of overdevelopment would be exacerbated further.
- l) Green Lane is a small, rural, close-knit community that is being bombarded with new builds.
- m) Applications for “mini estates” which is out of character with this rural lane.
- n) The bottom of Green Lane has verges which has been broken down and grass churned up by; Lorries, diggers, JCB’s and heavy machinery which are being used in the building of large re-builds. This increased development on the lane has got to stop.
- o) The proposed dwelling is completely out of character with the surrounding area, the dwelling is almost three times the size of the current bungalow and is higher than the other bungalows. Surely a re-build would need to be kept in character with the surroundings.
- p) There is no explanation for the ‘outbuilding’. This is a large building in its own right and appears to be across two floors and there is no explanation for the building.
- q) There has been too much paid for the building plot and this is why the proposed dwelling is so large. This is not a sufficient reason for such a large dwelling to occupy the plot.
- r) The proposed property would be overbearing and out of scale with the existing properties on Green Lane. The development would be out of keeping with the area.
- s) It seeks to replace a small bungalow with a five bedroom property with a garage and outbuildings.
- t) The site occupies a prominent elevation on a corner junction. Therefore, the proposed two storey building with an under-garage would dominate the skyline.
- u) The level of traffic that uses Green Lane is already dangerous for dog walkers, elderly people and young children as a result of several businesses and new properties which have recently developed. Additional development would not appear to be possible.
- v) Whilst a replacement dwelling could be a welcome improvement to the original property, the proposed house would be out of keeping with the neighbouring properties, as the properties on Green Lane are predominantly bungalows or one and a half storeys.
- w) The site is already of an elevated position and a two storey dwelling here would tower over existing properties.
- x) The large footprint of the property would sit comfortably on the plot but would be suited to a single storey property or a one and half storey dwelling.
- y) The proposed outbuilding is an unnecessary additional building and would sit outside of the development line of Green Lane. The building should be contained within the existing garden area and should be of a timber/wooden construction which would be more in keeping with the existing area.
- z) There is increased traffic on Green Lane as the rural lane has become busy due to increased traffic.
- aa) The plans show a driveway entrance to the right on the corner of Green Lane/Sealwood Lane, with the increase in traffic, this is an increased

- concern. This junction is already unsafe due to the level of traffic and the inability of two cars to pass either on Green Lane or Sealwood Lane.
- bb) The lanes are used by ramblers as the lanes are more like footpaths than highways.
 - cc) Green Lane and Overseal are being turned into towns. Whilst it is understandable that progress needs to be made, it is necessary to look at the impact on villages.
 - dd) Green Lane represents a ribbon of dwellings outside of the village confine and sits on the edge of the countryside. Therefore, it would appear over dominant and excessively sized.
 - ee) The proposal will tower over existing properties in the area, as they are predominately bungalows.
 - ff) The current bungalow is 91 metres squared and the proposal is 243 metres squared, this is just the footprint and does not take account of the height or volume of the building.
 - gg) The dwelling would appear to be three storeys in height when looked at from Green Lane.
 - hh) The proposed dwelling has been set back to the site, creating an over dominant effect over the Brambles bungalow on Sealwood Lane and the Martins on Green Lane, it should not be built on the highest part of the plot as this would help to ensure that the privacy of neighbouring residents is retained.
 - ii) The floor levels of the proposed dwelling are higher than existing to accommodate the sunken garage, this increases the impact of the proposed dwelling. The existing bungalow already overlooks the existing neighbouring properties, the proposed property would overlook and overshadow unnecessarily.
 - jj) This is a replacement dwelling not a new dwelling and will not add to the housing stock within the district. The demand for dwelling type would be a single storey bungalow as there are many people living in Overseal and the wider District that live in larger properties that want to move to a bungalow if there was the opportunity.
 - kk) The development would not comply with policy INF8 in that the scale of the proposed development is not appropriate and the development would adversely affect the character and appearance of the wider countryside.
 - ll) A dormer bungalow would be better suited to the site.
 - mm) Previous objections in relation to application 9/2015/0796 have been raised on the basis of; scale and scope, increase in traffic and environmental impact.
 - nn) The access has been created over an existing ditch which carries excess water to a stream which eventually joins the River Mease. There are already excessive amounts of mud and waterlogging at the junction of Green Lane and Sealwood Lane.
 - oo) If the application is not refused, it would clearly contradict the previous ruling of the Planning Committee against planning application 9/2015/0796.
 - pp) The plan shows a garage with a room and a window in the gable end, this will look directly in the rooms of neighbouring properties.
 - qq) Due to the number of garages and outbuildings is Green Lane to expect a business premises.

Development Plan Policies

The relevant policies are:

- 1998 Local Plan (saved policies): Housing Policy 8 and Environment Policy 1.
- 2016 Local Plan: S2 – Presumption in Favour of Sustainable Development, H1 – Settlement Hierarchy, SD1 – Amenity and Environmental Quality, SD3 – Delivering Sustainable Water Supply, Drainage and Sewerage, BNE1 – Design Excellence, BNE3 – Biodiversity, BNE 4 – Landscape Character and Local Distinctiveness, INF2 – Sustainable Transport and INF8 – The National Forest.

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: SDT1 – Settlement Boundaries and Development, H24 – Replacement Dwellings in the Countryside and BNE5 – Development in the Countryside.

National Guidance

National Planning Policy Framework (NPPF), relevant paragraphs include:

- Paras 6-10 (Achieving sustainable development)
- Paras 11-14 (The presumption in favour of sustainable development)
- Para 17 (Core principles)
- Para 32-34 (Promoting sustainable transport)
- Chapter 6 (Delivering a wide choice of quality homes)
- Chapter 7 (Requiring good design)
- Para 72 (Promoting healthy communities)
- Para 109 and 118-123 (Natural environments)
- Para 186 (Decision-taking)
- Para 196 & 197 (Determining applications)
- Para 203 – 206 (Conditions and obligations)

Planning Practice Guidance (NPPG) ID:26 (Design), ID:21a (Conditions), ID:3 (Housing land availability) and ID:50 (Rural Housing)

Local Guidance

- Housing Design and Layout SPG

Planning Considerations

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

- The principle of a replacement dwelling
- The size and scale of the proposed dwelling

- Access to the proposed dwelling
- Other issues

Planning Assessment

The principle of a replacement dwelling

The proposed development seeks to erect a new dwelling in the same position as an existing bungalow. Whilst the site falls outside of the designated village boundary for the village of Overseal, the replacement of an existing dwelling with a new dwelling would be broadly considered acceptable in principle through policies H8 of the Saved Local Plan and the NPPF. This is subject to the proposed dwelling sitting substantially on the same site as the existing dwelling and that the proposed dwelling is in context with the neighbouring properties.

The size and scale of the proposed dwelling

The proposed dwelling would be located on the corner of Sealwood Lane and Green Lane, both of which form public rights of way. The site is open fronted and visible from Sealwood Lane and two adjoining public footpaths, No. 36 which passes along Sealwood Lane and No. 6 which passes along the northern boundary. There are extensive, open views across the surrounding countryside to the south.

The proposed dwelling would therefore, be in an elevated position and would be highly visible from both public footpaths and the open countryside to the rear of the site.

The proposal substantially accords with the criteria of saved policy H8, in that the proposed dwelling although larger than the existing dwelling is of a similar scale to the existing since the scheme has been amended to reduce the overall height of the proposed dwelling by a reduction in the land levels and the removal of the additional outbuilding. This would create a dwelling which is more in-keeping with the neighbouring properties, which are predominantly between one and one and a half storeys.

The proposed dwelling is designed with the use of dormer windows and cat-slide roofs, to try and reflect the appearance of similar properties in the area and minimise the perceived dominance of the rear elevation to the open countryside. The development seeks to address the principles of policies BNE1 and BNE 4.

With suitable conditions, the proposed dwelling would comply with the minimum separation distances as contained within the Council's SPG.

Access to the proposed dwelling

The proposal seeks to use the existing access for an integral garage and create another access an additional garage. Whilst there has been concerns raised by local residents with regard to the creation of a new access and the increase in traffic down Green Lane as a result of the proposed development, there has been no objections raised by the County Highways Authority, subject to conditions stipulating visibility splays. The development would therefore be consistent with policy INF2.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plan/drawing 10 (Amended Plan May 2016), received on 23rd May 2016; and plan/drawing 11 (Amended Plan May 2016), received on 23rd May 2016; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt.
3. Construction work shall not 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.
4. No construction work shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
5. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the trees (identified and T1 and T2 on the submitted Protected Species Survey shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.
Reason: To protect the trees/landscape areas from undue disturbance
6. Prior to the first occupation of the new dwelling, the new access shall be formed to Green Lane. The access shall have a minimum width of 3.25m, be provided with measures to prevent surface water escaping from the site onto

Green Lane and with 2m x 25m visibility splays in each direction, the area forward of which shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 600mm in height relative to the Green Lane carriageway.

Reason: In the interest of highway safety.

7. Prior to the first occupation of the new dwelling, the existing access shall be reinstated as grass verge in accordance with a scheme first submitted and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

8. Prior to the first occupation of the new dwelling, space shall be laid out in accordance with application drawing 1237G 06 and maintained throughout the life of the development free of any impediment to its designated use.

Reason: In the interest of highway safety.

9. The dwelling shall not be occupied 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 or adjacent to the site (including those which would have their root or canopy structure affected), 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, recognising that initial clearance and groundworks could compromise the long term health of the trees/hedgerows affected.

10. 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.

11. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the dwelling house shall not be occupied 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.

12. No construction work shall take place until 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.

13. No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority (LPA). Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment 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'.

Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the LPA prior to the occupation of the development hereby permitted.

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.

14. Prior to the occupation of the dwelling house, the window inserted into the northern elevation (facing Sealwood Lane) of the first floor games room shall be obscurely glazed and shall remain as such for the lifetime of the development, unless otherwise approved by the Local Planning Authority.

Reason: In the interest of protecting the amenity of neighbouring residents.

Informatives:

- a. The application site is affected by Public Rights of Way (Footpaths 7 and 36 in the parish of Overseal as shown on the Derbyshire Definitive Map). The routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock.
- Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
 - If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 580000 for further information and an application form.
 - If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.
 - Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the Planning Authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.
- b. For 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 http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp. The administration of this application may be expedited if completion or verification evidence is also submitted to the Environmental Protection Officer (Contaminated Land) in the Environmental Health department: thomas.gunton@south-derbys.gov.uk.

Further guidance can be obtained from the following:

CIRIA C665: Assessing the risks posed by hazardous ground gases into buildings

CLR 11: Model Procedures for the Management of Contaminated Land.

CLR guidance notes on Soil Guideline Values, DEFRA and EA.

Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.

Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.

Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.

BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).

- c. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and seeking to resolve planning objections and issues. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- d. It is an offence to kill or damage or disturb bats or their roosts. If bats are found you are advised to inform Natural England, Block 7, Government Buildings, Chalfont Drive, Nottingham, NG8 3SN.
- e. Practical advice on how to protect/relocate any bats may be obtained from Malcolm Hopton, Derbyshire Bat Group, 9 Ashton Close, Mickleover, Derby, DE3 5QD, (Tel. 01332 511427).
- f. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.
- g. The hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in

use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

- h. This project has been screened to assess its impact on the River Mease SAC under the Conservation of Habitat and Species Regulations 2010. The assessment has concluded that the development would cause no significant impact and therefore an Appropriate Assessment is not required.

Item **1.7**

Reg. No. **9/2016/0348/FH**

Applicant:
Mr Robin Palin
32a Twyford Road
Barrow on Trent
Derby
DE73 7HA

Agent:
Mr Mark Pringle
Making Plans Architecture
Ivy Lodge
Twyford Road
Willington
DE65 6DE

Proposal: **THE ERECTION OF A SINGLE STOREY**
 CONTEMPORARY FLAT ROOF EXTENSION AT 32A
 TWYFORD ROAD BARROW ON TRENT DERBY

Ward: **Aston**

Valid Date: **12/04/2016**

Reason for committee determination

The item is presented to Committee at the request of Councillor Watson as local concern has been expressed about a particular issue.

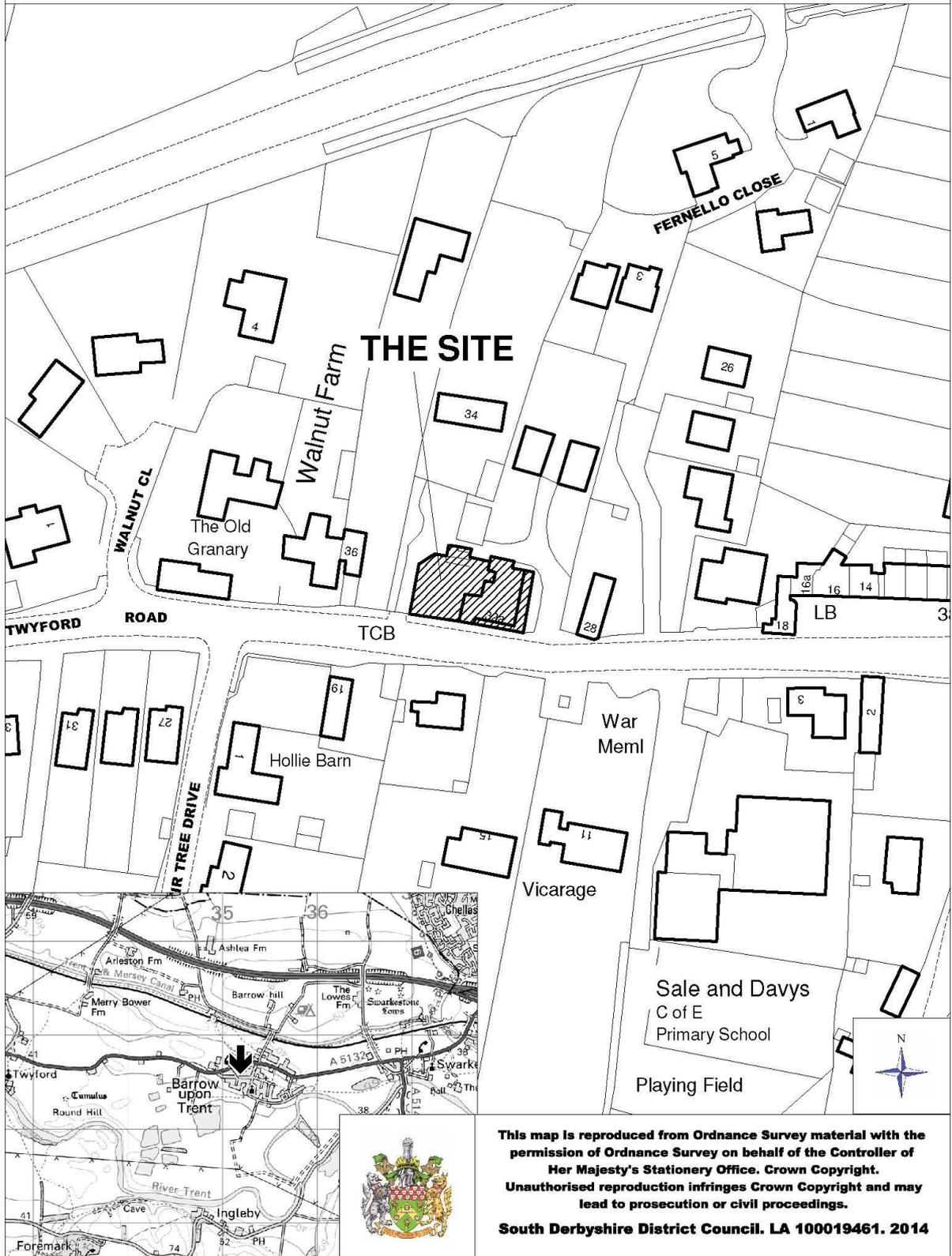
Site Description

32a Twyford Road is the former village primary school situated within the heart of and on the main thoroughfare through the village. It is a Grade II listed building within the Barrow on Trent Conservation Area. The school was constructed in 1843 with Jacobean details. It is single storey and of brick and tile construction with stone detailing. To the rear there is a small boiler house and a later lean-to extension and a redundant outdoor toilet block. The site is bounded by brick walls with railings atop said wall to the principle elevation.

Proposal

The application seeks approval for the demolition of the existing detached toilet block and the erection of a single storey contemporary flat roof extension to the rear of the Grade II listed building. The proposal also includes the part demolition of the later attached rear extensions to facilitate the integration of the new extension into the existing building.

9/2016/0348 & 0358 - 32a Twyford Road, Barrow on Trent, Derby DE73 7HA



Applicant's supporting information

Pre-application discussions were entered into with a specialist Conservation Consultant who was providing interim cover in the absence of a resident specialist officer. The following is a summary of the most salient points:

In assessing any application for listed building consent or planning permission, it will be very important to identify the significance of the listed building and the applicant would be expected to address this. This is very important in assessing proposals for a building which is compact, probably architect-designed and picturesque, as it is highly sensitive to change and extension and development within its setting.

Extension

Not all listed buildings can be extended satisfactorily without damaging their special interest. In view of the high significance of this listed building, any extensions will need to enable the compact and distinctive form of the building to be readable and visible. This does not just mean in views from the road - it was designed in the round.

One of the main considerations, in assessing the impact of alterations and extensions, is the economic viability of a use. As the building is currently in residential use and this is clearly a viable use, even though it is small, the building is clearly viable as a single dwelling in its present form. This would influence what may or may not be acceptable.

The building is still compact, despite a number of small extensions and a detached toilet block. This toilet block is clearly redundant and serves no useful purpose. I would have no objections to remodelling this toilet block into something more useful, and in doing so and to facilitate this, the loss of the brick wall which once formed the back of the schoolyard would be expected. Any replacement structure could utilise the existing rear wall of the site and would be south-facing, so if a largely glazed elevation can be achieved, it may still need to take account of solar gain; internal blinds or brise soleil or an enlarged projecting canopy may be necessary, depending upon the use of this part of the extension. The internal floor area of this part could be 3.5 metres (max depth) by 4.8 metres (existing max. width), to provide a large workable floor area for a number of different uses. One of the options that could be considered is the use of the rear wall of the toilet block for a monopitch slate roof. It is something to be considered but a flat roof may be less intrusive overall and in conjunction with an extension to the main building – continuity of design will be very important.

The relationship of school playground, toilet block and school is still an important one, and the break in the built-up frontage, with the space provided for the schoolyard, is an important part of the setting of the school, even though this was a later addition; it reflects the changing culture of schools. It is part of its history and part of its character as a listed building.

For this reason, it is important to preserve the open character of the former school yard and I would be opposed to any increase in the height of the boundary wall. The school was a public building, and designed to be a landmark in views along Twyford

Road. Any alteration to heighten the boundary wall, to reduce the amount that can be seen of the school, would harm the character of the listed building and the conservation area.

Design Principles

The listed building is a picturesque, architect-designed public building, of very high quality and distinctive architecture. For this reason, it is considered that the right approach is to adopt a subtle and stream-lined modern approach, to separate the new from the old and to suppress the height of the new building. Part of the historic interest of the building is its compact form and small size, as a village school, and this would be confused and harmed by large rambling extensions of the same form and material as the original building. A contemporary approach also enables the designer to consider options such as a flat roof and very slim details, such as lightweight aluminium-framed glazing, frameless/planar glazing/structural glass. As the original listed building is very small, this provides much greater scope to design an extension which makes best use of the available space but is also more lightweight in appearance and has less massing than a brick-built traditional extension. This is considered the right way to go in this location.

The existing lean-to building attached to the rear of the school building is a much later addition and of relatively low interest, as it seems to have functioned simply as a large porch. It would be feasible to replace this structure with a larger building but this would be naturally limited in size by the existing site constraints (e.g. 6.7 metres to the back wall and 3.3 metres internal width to the building break). The justification for the demolition of this structure would be on the basis that the proposed replacement structure had a neutral (or positive) impact. It is important that even on the back elevation, that the extension should be subservient to the original building. The form of the original building and the later extension to the east and to the north should still be articulated, readable and visible. For this reason, and to ensure that any new development is subservient, it is recommended that the line of any extension follows the natural break in the building, between the first phase and second phase (making an internal width of approximately 3.3 metres). This could then extend out to the rear boundary of the site and take in the existing bathroom.

The possibility of designing a flat-roofed extension on site was discussed and this option should be explored. There are various sympathetic treatments for roofs; e.g. standing seam in terne-coated stainless steel, zinc, or lead, or even a sedum roof may be appropriate in this instance. The edge of the roof will need to have a clean line and should visually sit underneath the original stone corbelled kneeler of the main building. A parapet may be appropriate but also a projecting, fin-like projecting awning with glazing on the same line as the first phase /corbelled stone, is another option.

Overall, there is scope to extend the back of the listed building, as far as the rear boundary wall, and to replace the toilet block with a structure of slightly larger footprint. These two extensions could be linked together, with an enclosed lightweight corridor. The size of extension which was tabled at our meeting [this was a traditional extension of brick and tile that picked up detail from the original building] was overwhelming and would be too dominant and would harm the character and setting of the listed building.

Critical to this approach is a bespoke contemporary design and detailed drawings of the front elevation in section and the relationship of the different elements would be required. The whole structure would need to be treated with similar design principles and continuity, ideally with the same eaves/roof line and the same simple glazing. However, depending upon the function of these rooms, a certain amount of screen walling would probably be required. This needs to respond to the listed building - keep it simple, unified in colour and with a simple palette of colours and materials. If using a largely glazed elevation to the west, based on a footprint of 3.3 metres by 6.7metres, there would be no need for a lantern; this would just add to the costs. Examples of designs, in the form of photographic images, have been attached which could be used for ideas, as well as details of an example of aluminium glazing called System 22 which is extremely lightweight in appearance – made by a company called “Fineline”.

Planning History

9/2007/1197/U & 1199/L – conversion of school to dwelling – approved 12/12/07

9/2010/0262/FH & 0263/L – extension and loft conversion – refused 30/04/10

9/2010/0662/FH & 0663/L – loft conversion and 2 rooflights – approved 26/08/10

9/2014/1017/TC – felling of self-set Sycamore tree – consent given 05/12/14

9/2014/1188/FH – alterations and extension of boundary wall and vehicular access – refused 13/02/15

9/2015/1126/FH – alterations to boundary wall, new pedestrian gates and bin store – approved 18/03/16

Responses to Consultations

The Conservation Officer advised that the proposal would be acceptable in principle subject to the following amendments:

- a) Removal of rooflight to the porch. If light is required in this area a narrow slot window should be inserted with stone header and cill. This would allow it to reflect the Jacobean character of the building.
- b) To ensure that the proposal is subservient it is recommend that the glazed porch area of the proposed hall be moved back towards the edge of the original building as recommended in the pre-application conservation advice. This would ensure that the school building retains its dominance within the site and that there is clear separation between the historic 19th century school building and the contemporary extension. This may require some minor remodelling of the interior. Ideally the proposed window to the en-suite bathroom should be removed and a rooflight used instead. It should be noted that we would recommend high quality detailing to the extension. It may be useful to submit the eves detailing to ensure that this is a slim a feature as practical to retain a modern contemporary lightweight feel.

Amended plans in line with the above comments were received on 24th May 2016. The missing side window to the porch was added to the drawings and a further amended plan was received on 13th June.

Responses to Publicity

At the time of writing the application is subject to reconsultation, with this period expiring on 18th June 2016. Any further objections received up to this date will be reported verbally at committee.

Barrow upon Trent Parish Council objects to the proposals for the following reasons:

- a) This property is a listed building and as stated on the SDDC conservation and heritage advice page, works to listed buildings should not be harmful to their special historic and architectural interest. Demolition of any part of the building would significantly affect this.
- b) The Parish Council feel very strongly that any changes to this property would impact greatly on the historical value of this property; it is located in the heart of the village and very visible to all. As stated in the Barrow upon Trent Conservation statement (page 16) the former Sale and Davys village school is an important, compact, building.
- c) The original planning permission for the conversion of the school building into residential premises (2007) stated the work on the conversion of the building should be sympathetic to the appearance of the building and the character of the area; the design approach must be sympathetic, with minimum impact, and there should be no interference with the front brick playground wall.
- d) SDDC has already allowed the last point to be breached by allowing extensive work on the playground wall.
- e) In addition, the original 2007 grant of the Listed Building planning application stated that as few alterations to the existing building as possible should be undertaken, boundary walls, railings and fencing should be retained, and owners' cars will be parked on the street as vehicular access cannot be formed.
- f) SDDC has designated the centre of Barrow upon Trent village as a conservation area in order to preserve its character and heritage: "A conservation area is an area of special architectural or historic importance, the character of which it is desirable to preserve or enhance. There are 22 conservation areas in South Derbyshire, each with a unique identity and style that we want to protect from indiscriminate change. This does not mean that every detail and feature of the area should be preserved, as it is the character of the area that is important. For this reason, any development in conservation areas, including extensions and modifications of existing buildings as well as the construction of new buildings must be done in a way that compliments the aesthetic qualities of the area." The proposed extension, by its very modern nature, defies the reason for the Conservation area, and is in the very centre of the village and visible to all. There appears to be little point in having either designated Conservation Areas or Character Statements about heritage features in the South Derbyshire area if this application is allowed to proceed.

- g) The amended plans take no heed of the area and the heritage/conservation status of this area of the village road.

4 objections have been received as a result of the reconsultation, raising the following concerns/points:

- a) Objector cannot understand why the extension has not been made to blend in with the original building. The extension is more applicable to a modern building and looks totally at odds with the old school which is sad as it is a lovely building;
- b) The proposed building is in complete contravention of all the reasons that this part of the village has been designated a conservation area and has been given heritage status by South Derbyshire;
- c) The owner was originally given permission to convert to a domestic dwelling with certain circumscribed conditions. One of these has already been ignored – the change to the frontage of the playground. The original permission also requested that the appearance of the building essentially remained as it was originally;
- d) The proposed extension is completely unsympathetic to the surrounding area, is visible to all who pass and is in the centre of the conservation area;
- e) Although its origins are not clear, the earlier history of the school mirrors the history of rural England, with all the major local families involved in its development; the Sales, the Davy brothers, the Harpur Crewes, the Dalrymples and the des Voeux. The history of our village continues through the local families who attended or supported it and its unique style and positioning with the Old Post Office, the Row (old cottages) and the former farm buildings will be destroyed if the character is changed so radically. As Ms Morris puts it – “ it reflects the changing culture of schools. It is part of its history and part of its character as a listed building”;
- f) The alterations to the building were designed by George Edwards in 1913. Edwards was an artist and architect who lived in Barrow upon Trent most of his life and who, for part of that time, stayed with the well-known local artist, George Turner and his family. Although not a great deal is known about his life he submitted a drawing for a memorial to be built in the King Edward Memorial Park c.1912, in memory of King Edward VII that was opened in 1922. When he died in 1944 he owned four properties and land in Barrow upon Trent and his drawings for the alteration of the school and his proposed memorial may be seen in Matlock. The existing lean-to building attached to the rear of the school building that Ms Morris refers to was used as the senior classroom not simply as a large porch and brings back memories of a very intimate space with Spartan heating and conditions, and as Ms Morris points out it is not only the view from the road that it is relevant “it was designed in the round”.
- g) The attachment of such a large, modern extension (twice the size of the original building) which, although it may pass as an acceptable building, is totally out of character, will completely destroy one of the few remaining images of our rural past and the ambiance of this conservation area;
- h) In 2007 when the Derby Diocesan Board of Education applied for ‘change of use’ from a school to a dwelling house (applications 9/2007/1197/U and 9/2007/1199/L), Marilyn Hallard, the then environmental advisor, stated that:

‘ the design approach must be sympathetic, with minimum impact’. Marilyn Hallard would not accept any interference with the front brick playground wall – e.g. to allow a vehicular access point; This stricture has already been ignored In the recent application conservation response by Mel Morris Conservation, she writes “Mr Paling stated that Philip Heath has already agreed in principle to removing a section of the wall to create off-street parking, although this has not been recorded in writing”. The front brick playground wall has already been altered despite the instructions at change of use. In the original impact assessment, it states “as agreed with Marilyn Hallard the proposed scheme, shown on drawing no 404.02A, makes as few alterations to the existing building as possible”;

- i) There are many other references in the original document at the time of ‘change of use’ to minimum impact and these were the regulations when the house was sold by the Derby Diocesan Board of Education; conditions that the Board had to agree to and regulations that the purchaser consented to. I see no point in having a listed building; a conservation area and regulations regarding change of use, if they are to be blatantly ignored. I strongly object to the alterations proposed to ‘The Old School’ Twyford Road on the grounds that it will damage the existing conservation area, and destroy the character of an important local building.

It should be noted that comments e) – i) were submitted under application 9/2016/0358 only but are relevant to this application also.

Development Plan Policies

The relevant policies are:

- 1998 Local Plan (saved policies): Housing Policy 13 (Residential extensions) and Environment Policies 12 (Conservation areas) and 13 (Listed or other buildings of architectural or historic importance).
- 2016 Local Plan Part 1: S2 (Presumption In Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence) and BNE2: (Heritage Assets).

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 57, 58 and 61 (Requiring good design), Chapter 12 (Conserving and enhancing the historic environment), paragraphs 186 and 187 (Decision-taking), paragraphs 196 and 197 (Determining applications) and paragraphs 203-206 (Planning conditions and obligations) and Annex 1 (Implementation)
- Planning Practice Guidance (PPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment)

Local Guidance

- Extending your Home Supplementary Planning Guidance (SPG) – May 2004
- Barrow upon Trent Conservation Area Character Statement (CACs) – Adopted 2011

Planning Considerations

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

- The impact of the development on the historic fabric, character and setting of the listed building;
- The impact of the development on the character and appearance of the conservation area; and
- The impact of the development on the amenities of the neighbouring properties.

Planning Assessment

Historic England (HE) positively encourages the re-use of redundant listed buildings in order to preserve them for future generations. Over recent years HE has produced numerous publications to champion those schemes where historic and contemporary designs have worked well together. The case studies in ‘Shared Interest: Celebrating Investment in the Historic Environment’ (HE publication, 1st March 2016) are a celebration of England’s best heritage-led development schemes. Each shows that with imagination and skill, old buildings can be given a new and positive future. “Even before the good response to *Capital Solutions* (2004) – the London-focused forerunner to this [above-mentioned] publication – the constructive, collaborative way of working that characterises English Heritage’s modern approach to conservation, had been widely welcomed. Greater pre-application consultation is resulting in more successful schemes. Investors are seeing heritage as an asset and are uniting the finest old and new architecture to leave a legacy that will inspire generations to come”.

The HE website shows examples of those schemes where modern architecture has been combined successfully with old buildings.

The impact of the development on the historic fabric, character and setting of the listed building

The proposed extension (as amended) is the culmination of extensive site meetings and discussions with regard to finding the best way to extend the current building which is prominent in the streetscape, is grade II listed and adds to the character and appearance of the Barrow upon Trent Conservation Area. Due to the ornate and unique character of the building it was felt that an extension that attempted to be in keeping with the host would produce a pastiche design that would not sit well with the building and would detract from and possibly overwhelm its character. The modern approach was felt to be the best way forward in order to minimise the impact on the special character of the building with the new addition being kept deliberately low and of plain character.

There would be minimal disturbance of the historic fabric and internal integrity of the principle listed building with the majority of the demolition and alteration works occurring to the later additions to the rear. The detached toilet block is of no particular historic or architectural merit and is in a state of disrepair and its removal to facilitate the building of the extension would be considered acceptable.

The proposed extension is of a low level and contemporary design which would allow it to be read as a modern addition to the original school building. It would be subservient to the host and would not detract from the special character of the existing school building. The school has had a number of extensions over time in two different styles and the proposed extension would add to the story and understanding of the building.

The originally submitted plans were detailed in line with the specialist conservation advice given and have been amended to take into account of further suggestions of the Conservation Officer. The amended scheme is considered to be a positive approach to extending the building without compromising the unique character of the existing building.

As such the amended scheme would conform to the requirements of Saved Environment Policy 13 and Policies BNE1 and BNE2 in that it would not adversely affect the historic fabric, internal integrity or external appearance of the principle building or its setting.

The impact of the development on the character and appearance of the Conservation Area

The amended scheme is considered to be a positive and innovative approach to extending the building which would show its evolution over time and is considered to be a solution that would enhance and therefore preserve the character and appearance of the Conservation Area.

As such the amended scheme would conform to the requirements of Saved Environment Policy 12 and Policies BNE1 and BNE2 in that it would not adversely affect the character and appearance of the Conservation Area or the general character of the area.

The impact of the development on the amenities of the neighbouring properties

Ground levels between the application property and the surrounding neighbours are relatively flat and there is adequate separation distance between the new bedroom window in the rear wall of the proposed extension and the main habitable rooms of the nearest neighbours to the north of the site. The neighbours to the east, west and south would not be affected by the proposed extension due to separation distances being in excess of the minimum distances required in the Council's SPG.

The proposed new window in the east side of the existing front porch would light a non-habitable single storey space and is located such that it would not impact on any of the surrounding neighbours. This alteration was recommended by the Conservation Officer in lieu of the originally proposed rooflight in the east side of the

porch roof which due to its size would have visually disrupted the clean lines of this roof and caused harm to the fabric of the building.

As such the amended proposal would conform to the requirements of the Council's SPG (Extending your Home), Saved Housing Policy 13 and Policies BNE1 and SD1 in that it would not adversely affect the amenities of the neighbouring properties.

The amended proposal would conform to the requirements of the NPPF and the NPPG and Policy S2 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

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 no's J1932-02 Rev E, received 24th May 2016 and J1932-05 Rev E, received 13th June 2016; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
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. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Large scale drawings to a minimum Scale of 1:10 of eaves detail, rainwater goods (including gutter profile and fixings and downpipe profiles and positions) and external joinery (including the aluminium screens and shutters), including horizontal and vertical sections, precise construction method of opening and cill, lintel and threshold details shall be submitted to and approved in writing by the Local Planning Authority before building work

starts. The 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 new external joinery (excluding the aluminium screen windows and shutters) shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

6. The aluminium screen windows and shutters shall have a matt grey finish, the shade of which shall be agreed in writing with the Local Planning Authority. The items shall be coated with the agreed colour within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

7. Notwithstanding any details submitted, precise details of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) 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(s) and the character of the area as the rooflights appear to be domed and are visible above the top of the approved extension.

8. Pointing of the existing/proposed brick walls of the extension hereby approved 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. The brick bond shall match the existing building.

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

9. 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(s) and the locality generally.

10. Prior to the commencement of the development hereby permitted the applicant shall confirm in writing to the Local Planning Authority, as a minimum, that:

(1) Floor levels within the proposed development will be set no lower than existing levels, and

(2) Flood proofing of the proposed development has been considered by the applicant and incorporated where appropriate.

Reason: To ensure that it is possible to incorporate important flood avoidance features including construction levels before the development begins in the interests of flood protection.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through extensive pre-application discussions and site visits and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. In the event that condition 10 is insufficient and floor levels within the extension must be set 300mm above the known or modelled 1 in 100 year (annual probability 1% chance) river flood level or 1 in 200 year (annual probability 0.5% chance) tidal & coastal flood level (which has been demonstrated by a plan to Ordnance Datum/GPS showing finished floor levels relative to the known or modelled flood level), it is likely that a further planning permission would be required.

Item 1.8

Reg. No. 9/2016/0358/L

Applicant:
Mr Robin Palin
32a Twyford Road
Barrow on Trent
Derby
DE73 7HA

Agent:
Mr Mark Pringle
Making Plans Architecture
Ivy Lodge
Twyford Road
Willington
DE65 6DE

Proposal: DEMOLITION OF REAR TOILET BLOCK TO FACILITATE THE ERECTION OF A SINGLE STOREY FLAT ROOF EXTENSION AT 32A TWYFORD ROAD BARROW ON TRENT DERBY

Ward: Aston

Valid Date: 12/04/2016

This application accompanies application 9/2016/0348 above which considers the merits of the case.

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 (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 no's J1932-02 Rev E, received 24th May 2016 and J1932-05 Rev E, received 13th June 2016; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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. The work shall be carried out in accordance with the approved details.

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

4. Large scale drawings to a minimum Scale of 1:10 of eaves detail, rainwater goods (including gutter profile and fixings and downpipe profiles and positions) and external joinery (including the aluminium screens and shutters), including horizontal and vertical sections, precise construction method of opening and cill, lintel and threshold details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The 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 new external joinery (excluding the aluminium screen windows and shutters) shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

6. The aluminium screen windows and shutters shall have a matt grey finish, the shade of which shall be agreed in writing with the Local Planning Authority. The items shall be coated with the agreed colour within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

7. Notwithstanding any details submitted, precise details of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) 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(s) and the character of the area as the rooflights appear to be domed and are visible above the top of the approved extension.

8. Pointing of the existing/proposed brick walls of the extension hereby approved 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. The brick bond shall match the existing building.

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

9. 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(s) and the locality generally.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through extensive pre-application discussions and site visits and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item **1.9**

Reg. No. **9/2016/0366/B**

Applicant:
Zoe Sewter
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
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Proposal: **THE VARIATION OF CONDITION 11 OF PLANNING PERMISSION 9/2013/0458 TO ALLOW THE USE OF THE TENNIS COURTS FOR NETBALL AT RECREATION GROUND COCKSHUT LANE MELBOURNE DERBY**

Ward: **Melbourne**

Valid Date: **15/04/2016**

Reason for committee determination

The application is reported to Committee under Regulation 3 of the Town and Country Planning General Regulations 1992, as the works are being undertaken on behalf of the Council.

Site Description

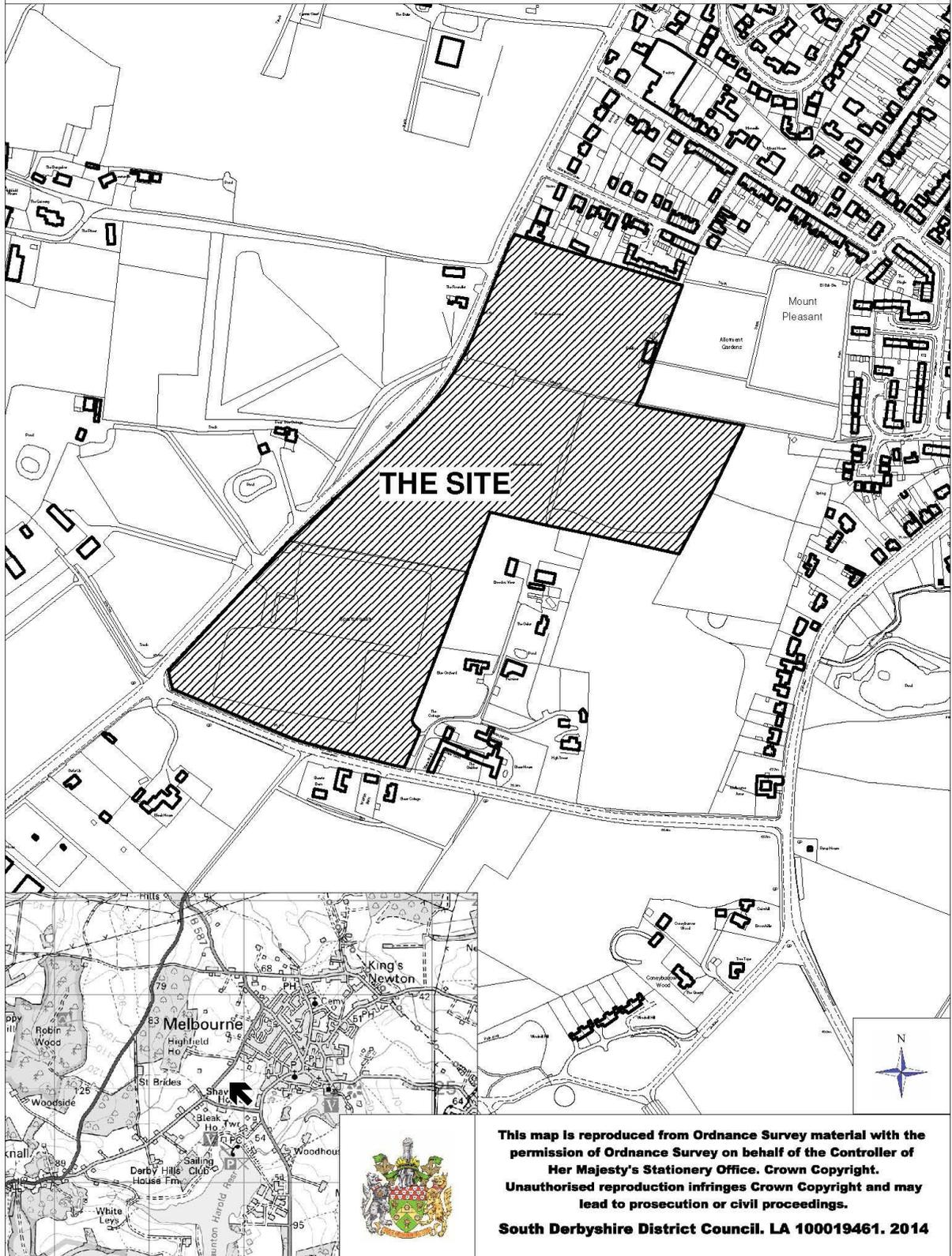
The recreation ground is located to the east of Cockshut Lane. The site consists of an all-weather football/soccer pitch which is floodlit, three rugby pitches, a further two football pitches, a recreational cricket pitch and a tennis court which is located to the northern end of the site.

Proposal

Planning permission was first granted under application ref: 9/2011/0910 for the creation of the recreation ground and associated facilities. The permission was later varied under application ref: 9/2013/0458 where a condition was attached to define the use of the tennis courts:

11. Tennis courts shall not be used for any other sporting activity other than tennis without prior written approval from the Local Planning Authority.

9/2016/0366 - Recreation Ground, Cockshut Lane, Melbourne, Derby
(DE73 8DG)



Reason: To prevent uses on the tennis courts which could result in excessive noise.

This application seeks permission to vary condition 11 so that the tennis courts may be used to play netball.

Applicant's supporting information

A Tennis Court Feasibility Report submits that there has been interest shown from other sports clubs/organisations to have access to hard surface courts, in particular basketball and netball, and it has been identified that there is not a club in place. Discussions with Derbyshire Netball and Burton and South Derbyshire Netball Association have identified an aspiration to develop a 'back to netball' programme. The primary use of the courts would remain for tennis purposes; however there would be an opportunity to extend the use for netball provision which would meet a current need in the area.

Planning History

9/2011/0910: Redevelopment to form new facilities for rugby, football, cricket, tennis and bowls and the erection of a new club house, floodlighting and creation of parking facilities – Approved January 2012

9/2013/0458: The removal of condition 7 and variation of conditions 9, 10, 17, 20, 21 & 26 of permission ref: 9/2011/0910 – Approved July 2013.

Responses to Consultations

No comments have been received.

Responses to Publicity

Melbourne Civic Society has no objections to the application.

There have been three comments from local residents that raise the following points:

- a) this would create heavy wear and tear on the tennis court's surfaces;
- b) this would create noise in terms of whistle blowing and shouting seven days a week until at least 9:30pm;
- c) when the field was used for the playing of football, there was constant noise and foul language that could be heard at the neighbouring properties, and if the courts have floodlights then this will continue until 9:30pm;
- d) the increased use of the courts would mean that they would be used for longer hours and there would be additional light spillage into neighbouring properties;
- e) in order to play competitive tennis, it is essential that the condition of the ground is well taken care of as they are very expensive to re-surface and the impact from the netball is bound to extenuate this;
- f) if there is funding from the LTA towards the use of the tennis courts, then they must be informed of the change of use, as this could affect their grant;

- g) the siting of the installation by Western Power must surely have safety issues being situated in a recreation ground;
- h) since the all-weather football field has been opened, the lights are very often left on after 9:30pm and this causes the lights to be shined into the back of peoples properties. The tennis courts are closer to residential properties than the football courts, this would worsen the lights shining into residential properties.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 – Presumption in Favour of Sustainable Development, SD1 – Amenity and Environmental Quality, INF6 – Community Facilities and INF9 – Open Space, Sport and Recreation.
- 1998 Local Plan (saved policies): Recreation and Tourism Policies 1 and 5, and Community Facilities Policy 1.

National Guidance

National Planning Policy Framework (NPPF), relevant paragraphs include:

- Paras 6-10 (Achieving Sustainable Development)
- Paras 11-14 (The Presumption in Favour of Sustainable Development)
- Para 17 (Core Principles)
- Chapter 8 (Promoting Healthy Communities)
- Paras 186-187 (Decision Taking)
- 203 & 206 (Planning Conditions)

Planning Practice Guidance (NPPG): ID53

Planning Considerations

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

- The principle of the use of the courts for netball
- Concerns about an increase in noise
- Other matters

Planning Assessment

The principle of the use of the courts for netball

Policy INF6 seeks to ensure the efficient use of community facilities and that they should be accessible to all members of the community. The additional use of the tennis courts to be used for netball would allow the facility to become more accessible to the wider community and would make a positive contribution. Therefore, in principle, the use of the courts to play netball would be acceptable.

Concerns about an increase in noise

The basis for condition 11 was in respect of noise disturbance to existing residential properties in the vicinity. The courts are currently used for tennis. Whilst the use of the courts for netball would be a different type of sport, this would not appear to change the overall nature of the use, with little in the way of spectators in the same way there would be with tennis. The sport itself is also not too dissimilar in noise terms to tennis, and there is nothing to prevent intensive use (e.g. coaching of the sport). The variation of condition 11 would not affect other conditions attached to the existing approval – notably not changing the existing hours where the court can be used. The proposal would therefore not result in longer hours of use or illumination. Overall the proposal would not cause unacceptable disturbance to local amenity above and beyond the existing use of the courts for tennis, and would be in accordance with Recreation and Tourism Policy¹ and Policy SD1.

Other matters

Concerns have been raised with regard to the likelihood of damage to the surface of the courts by the playing of netball. However, the likelihood of damage to the surface of the court would not be a sufficient reason to withhold planning permission, as this is a maintenance and liability concern.

Conclusion

It would appear that the use of the court for the purposes of netball would be similar to the use as a tennis court. The application would result in no loss of recreational space for tennis and would ensure that the facility is more widely and readily available to other users for netball – potentially facilitating a wider social gain to the community, and would accord with policies the Local Plan.

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 under Regulation 3 subject to the following conditions:

1. The agreed parking and manoeuvring of visitors/staff/service and delivery vehicles including secure covered cycle parking), shall be laid out, surfaced and maintained throughout the life of the development, free from any impediment to its designated use.
Reason: In the interests of highway safety.
2. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.
Reason: In the interests of highway safety.
3. The intensity, direction, spread of luminance and shielding of light sources (so as to minimise the risk of drivers on the highway being dazzled) shall be

maintained in accordance with the approved scheme for the life of the development.

Reason: In the interests of highway safety.

4. The ground levels of the area shown hatched and marked 'A' on the attached plan shall not be altered other than in strict accordance with Planning Permission Ref 2/2010/0220/SSA.

Reason: In the interests of the character of the area and to protect the amenities of the occupiers of adjoining dwellings.

5. Other than the areas shown hatched and marked 'A' 'B' and 'C' on the attached plan no raising or lowering of existing ground levels in excess of 300mm shall take place without the prior written approval of the Local Planning Authority.

Reason: In the interests of the character of the area and to protect the amenities of the occupiers of adjoining dwellings.

6. 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 to the satisfaction of the LPA.

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.

7. Tennis courts shall not be used for any other sporting activity other than for tennis and netball without prior written approval from the Local Planning Authority.

Reason: To prevent uses on the tennis courts which could result in excessive noise.

8. Written records shall be kept of the formal users of the recreation ground. The records shall include which users are using which sporting facility and at what time throughout the day and the facility administrators shall make that information available at all reasonable times to the local planning authority.

Reason: Should noise problems arise, the problematic bookings can be identified.

9. No external sporting facilities shall be used from 9:30pm until 8.00 am the following day, unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

10. Floodlighting to pitches and other recreation areas shall be turned off no later than 9:30pm and shall not be turned on again until the following afternoon.

Reason: To preserve amenity.

11. The approved scheme of lighting as approved in writing by the by the Local Planning Authority. (The scheme shall be compliant with ILE Guidance recommendations (Environmental Zone Category E2). Results of post completion testing shall be submitted to and approved in writing by the Local Planning Authority before the lighting is brought into use and shall demonstrate compliance with the scheme) shall be maintained throughout the duration of the permitted use.

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

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. Unless as may otherwise be agreed in writing with the Local Planning Authority a landscape management plan, which shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority prior to the first use of the development or any phase of the development, whichever is the sooner. The landscape management plan shall be carried out as approved.

Reason: In the interests of the appearance of the area and to ensure that tree and shrub planting does not constrain the capacity and functionality of the playing fields.

14. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no 6409A 01A, 6490P 03A, and drawing numbers UKS7405/3, 6409P 02A, 6409P 01-2, 6409 P 01, 6409 V01.

Reason: For the avoidance of doubt.

15. Unless as may otherwise be agreed in writing with the Local Planning Authority, before any part or phase of the development is brought into use it shall be constructed and/or implemented in accordance with details and specifications that confirm the facilities are compliant, where relevant, with the technical guidance of Sport England, Rugby Football Union, Football Association, English Cricket Board, Bowls England and Lawn Tennis Association.

Reason: To ensure that the development is a sustainable sport and recreation facility.

16. Unless as may otherwise be agreed in writing with the Local Planning Authority, the development shall be implemented in accordance with a phasing plan which shall have previously been submitted to and approved in writing by the Local Planning Authority and which identifies the timescale and order of the development.

Reason: To ensure that the development is a sustainable sport and recreation facility.

17. Before work is carried out to any playing field or pitch, details and specifications to demonstrate that the quality of any such pitch is compliant with Sport England technical guidance contained in Natural Turf for Sport and the relevant specialist technical guidance of the Rugby Football Union, English Cricket Board and Football Association, shall be submitted to and approved in writing by the Local Planning Authority. The works to pitches and playing fields shall be implemented in accordance with the approved details and specifications.

Reason: To ensure that the development is a sustainable sport and recreation facility.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item **1.10**

Reg. No. **9/2016/0379/FH**

Applicant:
Mr Troy Lee
Church Barn
Chapel Street
Smisby
Ashby De La Zouch
LE65 2TJ

Agent:
Miss Shella Aziz
Urban Designs Ltd
Suite 6
Anson Court
Horninglow Street
Burton on Trent
DE14 1NG

Proposal: **THE ERECTION OF A DETACHED SINGLE GARAGE/OUTBUILDING AND ANCILLARY WORKS AT CHURCH BARN CHAPEL STREET SMISBY ASHBY DE LA ZOUC**

Ward: **Repton**

Valid Date: **19/04/2016**

Reason for committee determination

The item is presented to Committee at the request of Councillor Stanton as local concern has been expressed about a particular issue.

Site Description

Church Barn is a new build single storey dwelling, with accommodation in the roof space, attached to a curtilage outbuilding of the Grade II listed Pitts Farmhouse in the Smisby Conservation Area. Being attached to an outbuilding which fronts and which has level access off Main Street, the application property is located approximately 3 metres below the highway level of Chapel Street.

Proposal

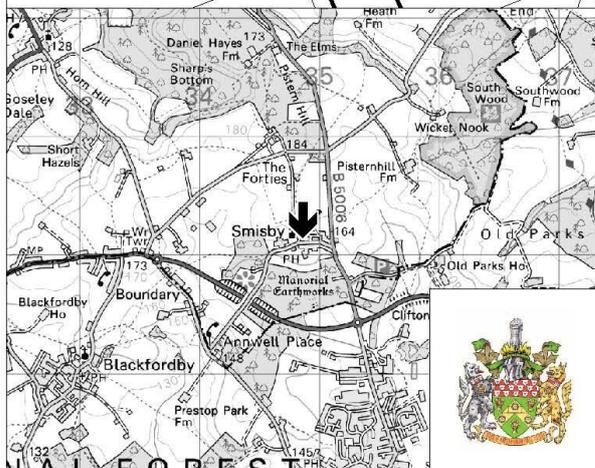
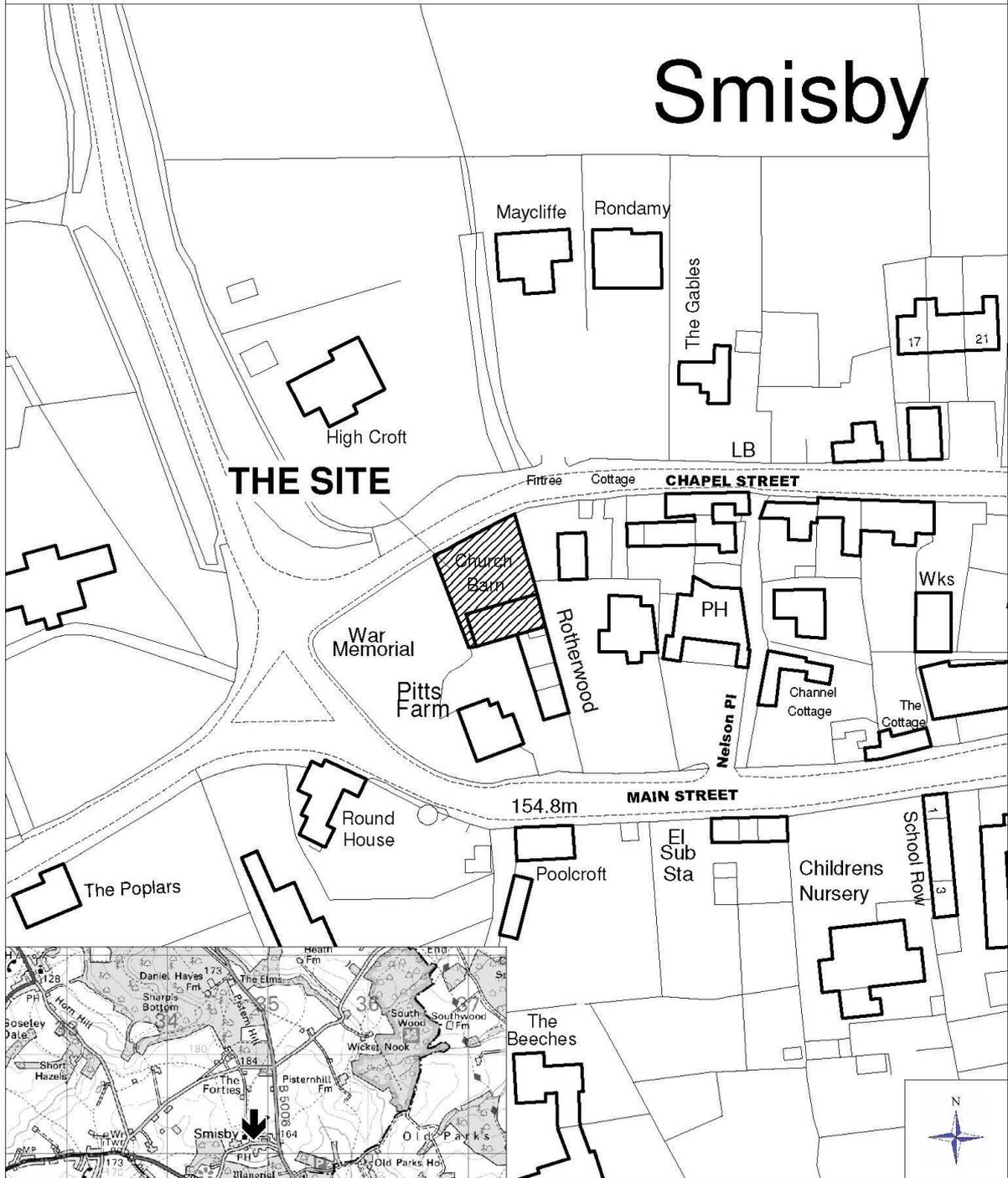
The proposal is for the erection of a single storey detached garage/outbuilding on land within the curtilage of the dwelling that is adjacent to and has level access on to Chapel Street.

Applicant's supporting information

There is no supporting information since Design and Access Statements are no longer a requirement for householder applications in a conservation area.

9/2016/0379 - Church Barn, Chapel Street, Smisby, Ashby de la Zouch
LE65 2TJ

Smisby



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South Derbyshire District Council. LA 100019461. 2014

Planning History

9/2014/0964/FH – The installation of a rooflight into dwelling and construction of a detached dwelling and ancillary works - reported at Planning Committee on 16th December 2014 where it was resolved to refuse the application on the following grounds:

1. The proposed detached garage would have an adverse impact on the character and appearance of the Conservation Area by virtue of its location and scale, contrary to Local Plan Policy Environment 12, Emerging Local Plan Policy BNE2 and paragraph 132 of the NPPF.

2. The proposed detached garage would be detrimental to the amenity of Fir Tree Cottage by virtue of its proximity and scale, contrary to Local Plan Policy Housing 13, emerging Local Plan Policy SD1 and the Core Planning Principles of the NPPF.

The application was subsequently dismissed at appeal on the grounds that the proposal would introduce a large double garage on land towards the front of the plot that would harm the living conditions of the occupiers of Fir Tree Cottage in terms of its visual impact and loss of daylight. The Inspector cited that due to the change in levels between the 2 properties and its proximity to the shared boundary, the garage would have an oppressive and overbearing impact on the ground floor rear facing rooms and garden of the neighbouring dwelling and would restrict levels of daylight received into the kitchen and lounge windows.

The Inspector went on to say that the proposal would preserve the character and appearance of the Smisby Conservation Area as it would be orientated with its side elevation facing the road thereby reducing its bulk, massing and visual impact when viewed from Chapel Street. Furthermore, the garage would be viewed against Fir Tree Cottage, a substantial 3-storey property to the east, and it would be comparable in height and of a similar pitched roof design to the existing outbuilding at Fir Tree Cottage which directly adjoins the road. He considered the scale, design and orientation of the garage would maintain the character and appearance of the area.

9/2015/0077/FH – The construction of a detached garage - reported at Planning Committee on 17th November 2015 where it was resolved to refuse the application on the following grounds:

The proposed development would be detrimental to the amenity of the occupiers of Fir Tree Cottage by virtue of its proximity and scale, contrary to Local Plan Housing Policy 13, emerging Local Plan Policy SD1 and the core planning principles of the NPPF.

Responses to Consultations

The Council's Tree Officer has commented as follows:

- The Pine tree in question is 10m in height with a crown spread of 5m and there are good public views from Chapel Street and the local conurbation;

- The Pine tree is in a fair condition but is somewhat stressed. It was previously within a now disrupted line of Pine trees providing, as a group, a lovely village feature. The tree has a contorted, misshapen bole from the 4m/5m point, and whilst this does lower the overall value (BS5837 Trees in relation to design, demolition and construction - Recommendations), it does add a quirky, individual and somewhat unique interesting feature;
- The proposed design alterations appear acceptable regarding the garage footprint and tree root protection area (RPA), therefore focus regarding construction and the potential impact of such on tree health should be on limiting the amount of work permitted within the RPA. From initial site inspections it does appear the RPA may extend further than is shown on the drawing which further enforces the above point;
- Ground disturbance within the RPA should be zero as should the movement of very heavy plant machinery. Storage of materials should be prohibited within the RPA and there does appear to be ample space within the site to facilitate this;
- If a new driveway is to be incorporated then a method statement and design construction plan would be required, clearly showing how roots are to be protected during demolition/construction and materials used; and
- It is not envisaged that other constraints are necessary and there are no reasons to reject the application with regard to the tree.

The Tree Officer's recommendation would be to allow the construction whilst ensuring all protective measures are conditioned, prior to consent/permission. All the usual conditions from BS5837 should be included as should a statement regarding root pruning, e.g. any roots (<50mm diameter) encountered during works should be pruned in accordance with BS3998 (Tree Work – Recommendations), i.e. back to good strong growth points using clean sharp secateurs. If encountering roots in excess of 50mm diameter, the advice of a professional arboriculturalist should be sought. An ongoing site appraisal may be necessary to ensure conditions for the tree's protection are followed.

The County Highway Authority has advised that the submitted details are acceptable and no objection is raised with regard to highway safety.

Responses to Publicity

Smisby Parish Council has made the following comments in terms of providing consistency on their observations:

- The roof line on the revised plans still appears to be above the Church Barn dwelling. It is understood that the height restriction was a specific constraint on the original plans for the dwelling itself and a core reason for the rejection of previous applications for a garage.
- The Parish Council does however acknowledge that the applicants are being considerate in the re-positioning of the proposed plot relative to the immediate neighbouring properties, so not over bearing and has reduced the height and footprint of previous submissions. Perhaps a slight reduction of the pitch of the roof could satisfy all due considerations.

Development Plan Policies

The relevant policies are:

- 1998 Local Plan 1998: Environment Policy 12 and Housing Policy 13
- 2016 Local Plan Part 1: Policies S2, SD1, BNE1 and BNE2

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 11-14 (presumption in favour of sustainable development), 57, 58 and 61 (requiring good design), 186 and 187 (positive decision-taking) and 196 and 197 (determining applications) and Chapter 12 (Conserving and enhancing the historic environment).
- Planning Practice Guidance (PPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment).

Local Guidance

- Extending your Home Supplementary Planning Guidance – May 2004
- Smisby Conservation Area Character Statement – Adopted November 2014
- Historic South Derbyshire Supplementary Planning Guidance – November 1991

Planning Considerations

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

- The impact of the proposed development on the character and appearance of the conservation area; and
- The impact of the proposed development on the amenities of the neighbouring properties.

Planning Assessment

The impact of the proposed development on the character and appearance of the conservation area

Although the proposed single storey garage/outbuilding would be marginally wider than the single storey detached outbuilding associated with Fir Tree Cottage it would have the same roof pitch and be at the same ridge height. The outbuilding sits forward of the principal elevation of Fir Tree Cottage and is adjacent to the footpath edge. The proposed garage/outbuilding would be set back approximately 4.5 metres from the highway edge and be hidden from view behind Fir Tree Cottage on the westerly approach along Chapel Street. On the approach from the east the proposed garage would be viewed against the backdrop of Fir Tree Cottage and the properties beyond it.

The south side of Chapel Street is characterised by buildings close to the highway edge while the north side features detached houses set back from the highway within generous plots. The proposed location and orientation of the building, close to the existing built form, would not be out of keeping with the current situation on the south side of the road and the openness of the west side of Chapel Street and the area beyond Church Barn would be largely maintained. The structure and pattern of the conservation area would therefore be preserved.

As such the proposal conforms to the Council's SPG (Historic South Derbyshire), Saved Environment Policy 12 and Policies BNE1 and BNE2 in that it would not adversely affect the character and appearance of the conservation area or the general character of the area.

The impact of the proposed development on the amenities of the neighbouring properties

The proposed garage/outbuilding would be a non-habitable single storey structure set back from the existing highway edge boundary of the site, which consists of a 1 metre stone wall with a 2 metre high trimmed hedge in front of it, by approximately 4.5 metres.

The roof pitch of the proposed garage/outbuilding would match that of the single storey frontage outbuilding to the east neighbour (Fir Tree Cottage). The proposed building would be orientated adjacent to and parallel with the rear fence line of the site's parking area, with its roof slope sloping away from the highway. It would be situated 5.1 metres away from the rear garden boundary of Fir Tree Cottage at its closest point, 5.5 metres at its furthest. There would be a 12m separation distance (the minimum distance for a two-storey dwelling required by the Council's SPG) between the proposed building and the rear habitable room windows of Fir Tree Cottage, which is orientated side on to the highway.

The Council's SPG seeks to protect the windows in neighbouring properties from overshadowing from 2-storey extensions only, with single storey extensions being decided on their own merits on the basis of preserving privacy between neighbours. There is a slight change in the existing ground levels between the application site and the adjacent neighbour (Fir Tree Cottage) with the application site being approximately 0.4 metres above the neighbour's garden level although some minor works of excavation are included to aid in minimising the height of the new structure. As the proposed garage would be a single storey non-habitable structure, of a narrow width and situated to the rear of the parking area and set back from the boundary with the neighbour, it would not overshadow the main ground floor primary windows of the neighbour.

There would be no window openings in the rear elevation of the proposed building that faces the neighbour's garden and as such privacy between these neighbours would be preserved.

As such the proposal conforms to Policy BNE1 and SD1 in that it would not adversely affect the amenities of the neighbouring properties.

The proposal would conform to the requirements of the NPPF and the NPPG and Policy S2 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.
Reason: In the interests of the appearance of the building(s) and the character of the area.
4. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
Reason: In the interests of the appearance of the building(s), and the character of the area.
5. Pointing of the 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.
Reason: In the interests of the appearance of the building(s).
6. 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(s) and the locality generally.

7. At least one week prior written notice of the date of the commencement of the works hereby granted consent shall be given to the Local Planning Authority.

Reason: So as to enable a Planning Officer to be present on site in order to agree the extent of works before they are commenced, in the interest of the health and safety of the trees, and to ensure that the appearance of the tree and the character of the area is not unduly harmed.

8. A method statement regarding the pruning of any roots that may be encountered during construction shall be agreed with the Local Planning Authority prior to any works commencing on site. The agreed works shall be carried out in accordance with the British Standards Institute recommendations for tree work (BS5837 and BS3998).

Reason: In the interest of the health and safety of the trees.

9. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the root protection area of the Corsican Pine tree shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

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

10. There shall be no tipping or deposition of materials within the area fenced under condition 7 above without the prior written authorisation of the local planning authority.

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

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:
www.gov.uk/government/publications/building-on-or-within-the-influencing-

distance-of-mine-entries. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

- c. You are advised that any work required to the Coriscan Pine should be carried out in accordance with the British Standards Institute's recommendations for tree work.

Item 1.11

Reg. No. 9/2016/0395/FO

Applicant:
Mr Philip Flint
31 Blacksmiths Lane
Newton Solney
Burton on Trent
DE15 0SD

Agent:
Mrs Lorna Thomas
A for Architect
7 Carnarvon Court
Bretby
Burton-on-Trent
Derbyshire
DE15 0UA

Proposal: **THE ERECTION OF A DWELLING AT 31 BLACKSMITHS
LANE NEWTON SOLNEY BURTON ON TRENT**

Ward: **Repton**

Valid Date: **27/04/2016**

Reason for committee determination

This item is presented to Committee at the request of Councillor Stanton because local concern has been expressed about a particular issue.

Site Description

The application site is an area of garden which is located to the north east of no 31 Blacksmiths Lane, a two storey dwelling and adjacent to no 29 Blacksmiths Lane, a single storey detached dwelling. The site is predominantly flat but is slightly higher than Blacksmiths Lane. The area of land closest to the highway is laid to lawn and separated from the footway by post and rail fencing and a newly planted hedgerow. Further into the site is an extension of the driveway to no 31 providing additional parking. An established hedgerow is located 90 degrees to the dwelling separating the parking area and the rear garden. One tree of note is located in the north east corner of the rear garden and is understood to be the last apple tree remaining from the time the land was used a working orchard.

Proposal

The application is submitted in outline with all matters reserved. However, an indicative plan has been submitted showing the location of the proposed dwelling, the new vehicular access and the two parking spaces. The indicative plans suggest a single storey dwelling similar in style to that of no 29 Blacksmiths Lane.

Applicant's supporting information

Along with the application and indicative plan the agent has submitted a Design and Access Statement which sets out the design principles and concepts; landscaping and appearance as well as the planning policy context.

Planning History

There is no planning history associated with this site.

Responses to Consultations

The County Highway Authority has no objection to the proposed development subject to conditions relating to the submission and approval of details of a scheme for the access and car parking associated with the property.

Severn Trent Water has no response at the time of writing this report.

Contaminated Land Officer has no objection to this proposal.

The Tree Officer considers that the established fruit tree to be removed is unworthy of protection and therefore should not be considered a material consideration.

Responses to Publicity

Newton Solney Parish Council discussed the application at length. They state in their response that the property would appear cramped on this small site and would not be in keeping with the existing environment. It would appear to be taking light from and looking immediately onto the adjoining property. The vehicular access appears unsatisfactory and any additional traffic movement to the area would be detrimental.

Two neighbour objections have been received, raising the following concerns/points:

- a) Proposal is too large for the plot in which it will sit;
- b) The plans incorrectly depict the rear of no 29 by not showing the conservatory/garden room;
- c) No 29 will suffer loss of light and air if the dwelling is located as proposed in the indicative plan;
- d) No 29 will be overshadowed and will suffer a loss of privacy;
- e) If approved, any development should be single storey;
- f) Permitted development rights should be removed relating to enlargement/alterations of the dwelling or alterations to the roof or the installation/replacement of antennae;
- g) Ridge height of the new dwelling not to exceed that of no 29 Blacksmiths Ln;
- h) The new dwelling should be located closer to the highway to fit harmoniously with the streetscene;
- i) Construction materials should be similar to no 29 Blacksmiths Ln;
- j) The garage and driveway should be located on the opposite side to no 29 as the bedroom is adjacent to the proposed driveway and would be further away from the driveway of no 34.

- k) The dwelling should have no windows on the north eastern side facing no 29.
- l) No antennae, ducts, vents, extractors, soil vent pipes, heat exchange or air source or air conditioning units should be positioned to face no 29.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: Policies S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport)
- 1998 Local Plan (saved policies): Housing Policy 5 (H5) and Environment Policy 9 (EV9)

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: Policy SDT1 (Settlement Boundaries and Development) and BNE8 (Protection of Trees, Woodland and Hedgerow)

National Guidance

- National Planning Policy Framework (NPPF) 14, 17, 32 , 56, 58, 196, 197
- Planning Practice Guidance (PPG) ID 26 Design

Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)

Planning Considerations

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

- Principle of Development
- Highway Safety
- Residential Amenity

Planning Assessment

Principle of Development

The location of the site is within the confines of the settlement of Newton Solney where new development is considered acceptable in principle. The settlement has a number of services and facilities, including shops, school and a regular bus service making this a sustainable site in general terms consistent with policy H1 (settlement hierarchy) and saved policy H5. The proposal is also consistent with National

Planning Policy Framework paragraph 14, being a sustainable location. This states that, at the heart of the NPPF, is the presumption in favour of sustainable development and that development proposals that accord with the development plan should be approved without delay.

The location would not lead to the adverse intensification of housing as the proposal is for a single dwelling, similar in scale to the existing bungalows to the north east.

Highway Safety

In terms of highway safety, it is noted that Blacksmiths lane is a non-classified road and, whilst the access to the proposed new dwelling is a reserved matter, the indicative plan shows an access adjacent to the existing access to 31 Blacksmith Lane leading to a minimum of two car parking spaces at the front of the proposed dwelling. The County Highway Authority has no objection to the proposal subject to the inclusion of conditions relating to visibility and minimum number and size of parking spaces.

In policy terms it is noted that policy INF2 states, amongst other things, that planning permission will be granted for development where there is no undue detrimental impact upon highway safety. This is echoed by the NPPF at paragraph 32 which states amongst other things, that safe and suitable access to the site can be achieved for all people; and development should only be prevented or refused on transport grounds where the impacts of development are severe. This proposal would slightly increase car movement to this part of the highway network but would not be contrary to policy INF2 and paragraph 32 of the NPPF.

Residential Amenity

Whilst the proposal is submitted in outline with all matters reserved, the Local Planning Authority must be satisfied that the site is big enough to accommodate a dwelling and associated amenity space and sufficient off-street car parking without adversely impacting neighbours. Policy BNE1 sets out design principles. These principles are complemented by the Council's adopted Supplementary Planning Guidance "Housing Design and Layout" which seeks to achieve a reasonable level of amenity for occupants of existing and new dwellings and states that new single storey dwellings will be considered in terms of their effect on existing dwellings, on their merits. In addition one of the core principles of the National Planning Policy Framework (NPPF) as set out in para 17, is to secure a good standard of amenity for all existing and future occupants of land and buildings.

The indicative plan shows a single storey dwelling approximately 2m from the south western elevation of no 29 Blacksmiths Lane and 1m inside the redline of the application boundary. As the application is in outline, the indicative plan merely establishes that it is possible to locate a dwelling on the site and provide adequate amenity space and off-street parking. No 29 has a bathroom window on this elevation but as this is a secondary window the distance standards do not apply. The indicative plan also shows that the proposed dwelling would have a rear garden with a depth of 11m.

Emerging policy BNE8 seeks to protect trees woodland and hedgerows. Proposals that affect trees woodland and hedgerows should clearly demonstrate that development proposals have been informed by a full survey, appropriate protection measures are secured. A mature fruit tree is proposed for removal. Whilst this is thought to be the last remaining apple tree from the original orchard, the Council's Tree Officer does not consider it worthy of protection but instead suggests a replacement on the site.

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

Recommendation

GRANT permission subject to the following conditions:

1. (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 access, layout, 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. No development involving the construction of foundations and/or buildings 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.

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

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

5. Prior to any other works commencing, the existing vehicular access to 31 Blacksmiths Lane shall be modified in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The access shall have a minimum width of 3m, be constructed as a splayed

vehicular crossover and any redundant sections of the existing driveway shall be reinstated as footway and verge.

Reason: In the interests of highway safety, recognising that initial site clearance works have the potential to impact negatively on highway safety.

6. Prior to first occupation of the new dwelling, the new access shall be formed to Blacksmiths Lane. The access shall have a minimum width of 3m and be constructed as a splayed vehicular crossover.

Reason: In the interests of highway safety.

7. Prior to the first occupation of the new dwelling, space shall be provided within the plot curtilage for the parking of two vehicles. Each space shall measure at least 5.5m x 2.4m and be maintained throughout the life of the development free of any impediment of to its designated use.

Reason: In the interests of highway safety.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve issues, making amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated	Page
9/2015/0129	Cauldwell Road, Linton	Linton	Dismissed	Committee	106
9/2015/0796	Sealwood Lane, Overseal	Seales	Dismissed	Committee	118
9/2015/0875	Cockshut Lane, Melbourne	Melbourne	Dismissed	Delegated	121
9/2015/1176	Sutton Lane, Hilton	Hilton	Allowed	Committee	124



Appeal Decision

Inquiry held on 19 - 21 April 2016

Site visit made on 20 April 2016

by Anthony Lyman BSC (Hons) DipTP MRTPI

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

Decision date: 16 June 2016

Appeal Ref: APP/F1040/W/15/3132831
Cauldwell Road, Linton, Derbyshire, DE12 6RX

- 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 Investin Properties (Jersey) Ltd against the decision of South Derbyshire District Council.
 - The application Ref 9/2015/0129, dated 28 January 2015, was refused by notice dated 24 June 2015.
 - The development proposed is the erection of up to 61 dwellings (all matters reserved).
-

Decision

1. The appeal is dismissed

Application for Costs

2. At the Inquiry an application for costs was made by South Derbyshire District Council against Investin Properties (Jersey) Ltd. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was originally made in outline for up to 75 dwellings and detailed means of access. Subsequently, before the application was determined, the proposal was amended to up to 62 dwellings. Just before the appeal was made, the appellant wrote to the Council advising that the intention was to seek the removal of 'access' from the description of the proposal to be considered at appeal. At the same time, the appellant submitted to the Council a further outline application for an amended scheme of up to 61 dwellings with all matters reserved for future determination. This re-submitted application was refused by the Council on 13 November 2015.
 4. The appellant requested that the Inquiry proceed on the basis of the revised layout of 61 dwellings with all matters reserved. The Council did not object to that submission. The revised indicative layout had been the subject of consultation on the re-submitted application and, therefore, I considered that no-one's interests would be prejudiced by the Inquiry proceeding on that basis, as set out in the description in the Header above.
 5. At the Inquiry, a completed Section 106 Planning Obligation was submitted. The Agreement undertakes to provide local facilities and/or contributions to mitigate the impact of the development on local facilities and services. These
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include on-site open space, and contributions towards off-site built facilities, outdoor sports facilities, education, healthcare and the National Forest. Obligations relating to the drainage of the site are also included. I will refer to this S106 Agreement later in my Decision.

6. Both parties submitted proofs of evidence on housing matters. In the Statement of Common Ground it was agreed that the Council could not demonstrate a five year supply of housing land (HLS) at the time of the Inquiry. In the light of that shortfall the parties agreed that it would not be necessary to call witnesses to give oral evidence to the Inquiry.
7. At the Inquiry the Council stated that the final report of the Local Plan Inspector on the South Derbyshire Local Plan – Part 1 (Local Plan Part 1) was imminent, and that the Council intended to adopt the plan on 19 May 2016. The Inspector’s report declaring the plan to be sound was issued on 10 May 2016 and the Local Plan Part 1 was adopted on 13 June 2016. The Local Plan Part 1, together with some remaining saved policies of the South Derbyshire Local Plan (1998) (SDLP), now form the development plan for the District.
8. After the close of the Inquiry, but before the plan was adopted, both parties submitted email correspondence giving their differing views as to the likely impact of the Local Plan Part 1 on the Council’s HLS post adoption. I will discuss the email correspondence on the HLS position later in my Decision.

Main Issues

9. The main issues to be considered are, i) the effect of the proposed development on the character and appearance of Linton and the surrounding area, ii) whether the appeal site is appropriate for residential development, having regard to the principles of sustainable development, and national and local planning policies relating to development in the countryside, iii) the effect of other considerations, including housing land supply on the overall planning balance.

Reasons

Background

10. The appeal site is an agricultural field in the countryside to the north-west of the village of Linton. The field lies to the south of Cauldwell Road which, at this point, is an unrestricted, unlit country road lined with grass verges, hedges and occasional hedgerow trees. Although all matters are reserved for future determination, the revised indicative plan includes a layout of 61 dwellings, areas of open space, a play area, a swale/balancing pond, vehicular access from Cauldwell Road and a pedestrian link to the village.
11. The roughly triangular shaped field is enclosed on three sides by hedgerows with countryside beyond, although the field immediately to the south-east has outline permission for residential development granted on appeal in 2014. The appeal site is detached from the settlement edge of Linton, with a short, eastern boundary abutting only the extensive gardens to a single bungalow fronting Cauldwell Road. Beyond the bungalow is the built up housing development on Warren Drive which forms the edge of the village.

Character and appearance

12. Both parties submitted proofs of evidence from their expert landscape witnesses who reached different professional judgements as to the significance of the landscape and visual impacts of the development. I have had regard to these assessments and my own observations from the parties agreed viewpoints, following several visits to the site and the surroundings.
13. The appeal site is not subject to any formal landscape designation and the Council conceded that it is not within a valued landscape as referred to in paragraph 109 of the National Planning Policy Framework (the Framework). Nevertheless, the impact of development on a non-designated landscape can be an important material consideration and the different roles and character of areas should be taken into account to ensure that development is suitable in the local context. Paragraph 17 of the Framework confirms, amongst other things, that the intrinsic character and beauty of the countryside should be recognised.
14. The site is typical of the character traits of the Mease/Sence Lowlands character area identified in the National Character Area Profile (NCA), including gently undulating land forms, and localised areas of small fields with dense hedgerows. At a more local level¹, the appeal site falls within the Village Estate Farmlands landscape character type defined by gently rolling lowlands with minor ridges and shallow valleys which retain a rural remote character with small villages and red brick farmsteads. The site is on a low plateau and slopes gently down to the south from Cauldwell Road. To the north and west the land also generally falls away.
15. The field contributes to and enhances the rural setting of Linton and acts as a buffer, screening views of dwellings on Warren Drive. In views from the north and from the west these existing dwellings are not prominent as shown for instance, in the appellant's viewpoint 13², despite the photograph having been taken in winter with little leaf cover. Warren Drive appears to drop away below the site such that mainly, only the tops of a small number of roofs are visible beyond the intervening hedgerows. This is reflected in the appellant's evidence³ which states that *due to the relatively enclosed nature (of Cauldwell Road,) the appreciation of the settlement edge is not perceived until the receptor is very close*. In contrast, the proposed development would lead to a significant loss of openness, and the long line of up to fifteen close knit detached houses, set back only a short distance from Cauldwell Road would appear prominent and incongruous in the rural street scene.
16. The roadside hedge is relatively low in parts and would do little to ameliorate the dominance of these houses in the rural setting. In longer distance views, such as those from the public right of way adjacent to Badger Wood on rising land to the north, the line of two storey houses on the ridge would break the skyline and have the appearance of an incongruous form of ribbon development extending into the open countryside, creating a prominent hard urban edge to the village. Given the absolutely minimal front gardens proposed to these frontage properties, and the low nature of the roadside hedge, which is shown on the indicative plans to be outside the site boundary,

¹ The Landscape Character of Derbyshire – Derbyshire County Council

² Appendices to Proof of Evidence of Mr Ben Wright

³ Proof of Evidence of Mr Ben Wright – paragraph 4.92

there would be little opportunity to mitigate the dominant impact of the houses with further landscaping.

17. The prominence of the proposed development would be significantly more harmful than the impact of the dwellings approved on the adjoining field which will take its access from High Street. That site in part, slopes further downhill from the appeal site from which it is separated by a dense, tall hedgerow with trees that would effectively obscure the houses from Cauldwell Road, and from distant views to the north. Having walked along the public footpath through that field on my site visit, I agree with the Inspector's remarks in that appeal Decision⁴ that the site was *a visually well contained field* and that the development *would not breach natural boundaries such as tree belts, woodlands and ridges*.
18. Furthermore, that developer also intended to incorporate the required 20% National Forest planting within the scheme and the Inspector concluded that this *would represent a significant planting screen for the proposed development*. For this reason, and given the dense and effective boundary screening between that approved scheme and the appeal site, I am not persuaded by the appellant's argument that, once the approved site had been developed, the proposed development would not be visible from any vantage point from where Linton would not already be visible. Furthermore, unlike the appeal scheme before me, that approved development would adjoin the rear garden boundaries of nearly all of the long line of houses on Warren Drive and would be seen as a more natural extension of the village.
19. I now turn to consider the effect of the proposal on the hedgerow along the northern boundary of the field. The hedgerow is intact and is species rich having 8 woody species and 9 standard trees within it⁵. The hedge is considered to be important under the Hedgerow Regulations (1997) and is a priority habitat under the UK Post-2010 Biodiversity Framework (2012). This roadside hedge makes a significant and positive contribution to the rural character and appearance of the area and to the Village Estates Farmlands landscape character type.
20. To facilitate the access from Cauldwell Road 11m of the hedge would have to be removed and, either side of the access, the hedge would be cut back to provide the necessary visibility splays. The highway authority also required a pedestrian link to be provided alongside the highway to link the development to the existing footway near to Warren Drive.
21. In the original scheme, the appellant proposed a 2m footway alongside the highway from the site access to the village. The plan indicated that the hedge would be retained and that it would only need to be trimmed to facilitate the footway. I am not persuaded by this argument. On one of my site visits I walked the route and noted that the grass verge between the edge of the carriageway and the stems of the hedgerow appeared in places to be less than 2m. I consider that substantial lengths of the important hedge would be in danger of being lost to provide a 2m wide footway and its footings. The Council's reason for refusal of the original scheme stated that 70 to 75m of the hedgerow would be lost. A replacement hedge set further back from the road to accommodate a path would be unlikely to be so species diverse or as

⁴ App/F1040/A/14/2214428

⁵ Extended Phase 1 Habitat Survey by Peak Ecology Ltd

- ecologically valuable, and would take time to mitigate the harm caused by the loss of sections of the existing important hedge.
22. To address this issue, the revised indicative plan before the Inquiry proposed a footpath within the site on the southern side of the roadside hedge. Towards the village about 4m of the hedge would have to be removed to facilitate a 'dog leg' through the hedge on to a new section of footway alongside the carriageway. This proposal would still have an adverse impact on the hedgerow and the character and appearance of the area, but the harm would be less than in the original scheme.
23. The highway authority objected to this layout on the grounds that it would not accord with the provisions of Manual for Streets which states that pedestrians and cyclists should generally share streets with motor vehicles. Furthermore, it would not satisfy the 6C's Design Guide which states that routes that run separately from a road are not normally encouraged and, where they do, they should be open, short, straight, well lit and as direct as possible, ideally with each end being visible from the other. The revised proposal would not satisfy all of these requirements, and the highway authority stated that such a path would not be adopted by the authority. Nevertheless, it could remain as a private footpath.
24. Irrespective of these arguments put to the Inquiry, layout and access including pedestrian access are reserved matters, although the degree of potential harm that either option would have on the character and appearance of the area is a consideration in this Decision. The potential loss of parts of the hedge, together with the introduction of a formal illuminated highway junction, white lining, and highway signs, would have a significant negative impact on the rural character of the area.
25. For the reasons given above, this highly prominent development would have a significant detrimental impact on the character and appearance of the area. The proposal would conflict with saved Environment Policy 1 (EV1) of the SDLP that seeks to restrict development in the countryside, and to ensure amongst other things, that the character of the countryside and landscape quality are safeguarded and protected. By failing to have regard to the local context, the landscape character of the area and visual amenity, the development would also be in breach of Policies BNE1 and BNE4 of the Local Plan Part 1. I will consider the weight to be afforded to these policies later in my Decision.

Sustainable development

26. Linton is designated as a Key Service Village in the Local Plan Part 1. It is a sustainable settlement with a range of facilities, and it benefits from regular bus services to Swadlincote and Burton-on-Trent. The proposed development would be in an accessible location. The Framework confirms that to achieve sustainable development, for which there is a presumption in favour, economic, social and environmental gains should be sought jointly and simultaneously. Delivering sustainable outcomes means taking full account of the environmental as well as the economic and social dimensions of development proposals which should not be taken in isolation.
27. The scheme would generate substantial benefits, in particular a mix of housing including affordable homes that would contribute to the Framework's requirement to boost significantly the supply of housing. This would satisfy the

- social dimension of sustainable development. Economic gains would be generated through the scale of the investment in the construction of the development and in the likely support for local Linton businesses by the future occupants of the new houses, although there is little evidence that such support is required or necessary to maintain those facilities.
28. The Framework describes the environmental role as contributing, amongst other things to protecting and enhancing the natural environment. The loss of sections of the important, priority habitat hedgerow would carry increasing weight depending on the extent of the loss as set out above. I note the views of the Derbyshire Wildlife Trust that the slight negative impact on biodiversity could be offset by a potential net gain following the development of the wildlife habitats in the green spaces on site. However, that representation appears to have been based on the anticipated loss of only that part of the hedge necessary to create the road access, rather than the potential loss of greater lengths of the priority habitat.
29. Given my earlier findings regarding the harm that the development of this green field site in open countryside would cause to the character and appearance of the local environment, to which I attach significant weight, I find that the environmental dimension would not be satisfied. Taking the three dimensions together, notwithstanding the social and economic benefits that would derive, nor the fact that the dwellings themselves would be built to relevant building standards to meet the challenge of climate change, the harm to the character and appearance of the area (the essence of the environmental dimension in this case) is such that I do not find that the proposal would represent sustainable development.
30. Accordingly, having regard to the Framework and the local planning policies referred to above, that seek to protect the countryside and promote sustainable development, the appeal site would not be an appropriate location for the proposed residential development.

Other considerations – housing land supply

31. At the time of the Inquiry, the Council conceded that a five year HLS could not be demonstrated. The Council submitted that the supply was about 4.4 years, although the appellant considered the figure to be significantly lower. It was agreed that Paragraph 49 of the Framework was engaged, and relevant policies for the supply of housing, including SDLP Policy EV1 should not be considered up-to-date. In such circumstances, paragraph 14 of the Framework confirms that, sustainable development should be allowed, unless any adverse impacts would significantly and demonstrably outweigh the benefits.
32. Shortly after the close of the Inquiry, the Council received the Examining Inspector's final report that found that the South Derbyshire Local Plan Part 1 was sound subject to some modifications. The Council adopted the plan on 13 June 2016. In order to have been found sound, the Council had to be able to demonstrate a HLS in excess of five years at that time. I note the evidence to the Inquiry of the appellant's expert housing witness disputing, amongst other things, the rates of housing delivery on some sites on which the Council relied, and his conclusion that even if the Local Plan Part 1 was adopted, it would not automatically mean a five year HLS exists at the time of my Decision. Amongst other things, the appellant's housing expert questioned the accuracy

- of the Council's housing trajectories from 2009/10, the achievability of delivery rates, and the housing requirement.
33. The appellant also did not accept some of the Council's lead-in times and build rates applied to deliverable sites, and discounted considerable numbers of dwellings from a wide range of housing sites. The number of windfall dwellings was also reduced. Overall, the appellant's expert witness considered that at the time of the Inquiry, an HLS of only 3.48 years existed.
34. Planning Practice Guidance (PPG) advises that up-to-date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual applications or appeals where only the appellant's evidence is likely to be presented to contest an authority's position. The Court of Appeal Judgement relating to Hunston Properties Limited⁶ similarly found that, "*It is not for an Inspector on a Section 78 appeal to seek to carry out some sort of local plan process as part of determining an appeal, so as to arrive at a constrained housing requirement figure. An Inspector in that situation is not in a position to carry out such an exercise in a proper fashion, since it is impossible for any rounded assessment similar to the local plan process to be done. That process is an elaborate one involving many parties who are not present at or involved in the Section 78 appeal.*" I note that in the appellant's proof of evidence, it is the sole author who discounts the numbers of dwellings from numerous sites. Although I do not doubt the expertise of the witness, I have little evidence of his personal involvement with all of these sites.
35. After the receipt of the Examining Inspector's report the Council confirmed in an email dated 20 May 2016 that, amongst other things, with the plan declared sound and allocations thus being deliverable, a housing land supply of about 5.33 years existed. The appellant responded by email that, irrespective of the Council's claimed position, the adoption of the Local Plan Part 1 will make little difference to the deliverability of sites and that a supply of 3.73 years is considered deliverable on adoption. The appellant argued that the Council had persistently overestimated the deliverable supply of housing and that the Council's revised figure of 5.33 years remains marginal and would be adversely affected by any of the sites being delayed. The Council responded that the HLS of 5.33 years has been determined following a pragmatic approach of pushing back some sites in the trajectory to take account of delays, for instance in securing s106 agreements. Without those adjustments, the Council considered that the HLS would be 6.79 years. The Council reiterate that the examining Inspector would not have declared the Local Plan Part 1 sound if the supply upon adoption was below 5 years with which I agree.
36. With regard to the advice in PPG and the Hunston Judgement above, it is not for me to carry out a forensic analysis of the housing statistics. Assessing a five year housing land supply is, by its nature, an entirely predictive exercise in a constantly changing scenario. It is likely that some assumptions made by the Council and the appellant may be flawed or disproven in time. In this case, the appellant's expert witness, although present at the start of the Inquiry, was not called to give evidence or to be cross examined and, therefore, the evidence remains untested. By comparison, the Council's approach has been thoroughly

⁶ St Albans City and District Council v Hunston Properties Ltd and Secretary of State for Communities and Local Government, [2013] EWCA Civ 1610.

tested in Local Plan Part 1 examinations with many parties present. The examining Inspector has very recently found the Local Plan Part 1 to be sound and that appropriate provision has been made for housing having regard for, amongst other things, the Framework and taking account of proposed numbers of new housing.

37. On the evidence before me I conclude that, following adoption of the Local Plan Part 1, I have little reason to doubt that a HLS in excess of five years exists. Accordingly, paragraph 49 of the Framework is not now engaged, and the policies relevant to the supply of housing in both the SDLP and the newly adopted Local Plan Part 1 are up-to-date.

Planning Balance

38. It is common ground that the proposal would be contrary to saved Policy EV1 that seeks to restrict development in the countryside. However, the Policy dates from 1998 and, in accordance with paragraph 215 of the Framework, the weight to be attributed to it depends on the degree of consistency with the Framework. I have been referred to several appeal decisions in which Inspectors have considered the Policy inconsistent with the Framework and attributed it little weight, and other decisions in which some consistency with the Framework has been found. However, unlike the HLS situation before me now, all of these decisions acknowledged the lack of a five year HLS.
39. The appellant argues that the Policy is inconsistent with the Framework and attracts little weight, because, in common with other housing policies in the plan, it confines general housing development to within settlement boundaries. The only exceptions relate to development that is essential for rural based activities or is unavoidable in the countryside. The supporting text gives examples of the latter such as roads, reservoirs and power lines. However, the use of the words 'such as' means that the list is not exclusive. Although the thrust of the SDLP is to restrict general housing to within settlements, some housing outside settlement boundaries will be 'unavoidable', in order to meet new housing targets in the Local Plan Part 1. Accordingly, I am not persuaded that the Policy imposes a blanket ban on development in the countryside. It has a degree of consistency with the more flexible approach of the Framework and carries some weight in this Decision.
40. The appellant also contends that Policy EV1's requirement for landscape quality, wildlife and historic features to be safeguarded and protected is an absolute test which does not allow any harm to be weighed against the benefits and is therefore, inconsistent with the central theme of the Framework on those grounds. I am not persuaded that the policy's requirement for features such as landscaping to be 'safeguarded' or 'protected', represents an absolute ban on anything that could cause harm, no matter how inconsequential or capable of being mitigated. That part of the Policy is consistent with the Framework's recognition of the intrinsic character and beauty of the countryside.
41. Notwithstanding these arguments, the newly adopted Local Plan Part 1 Policies BNE1 and BNE4 are also offended by the proposal and carry significant weight. Furthermore, given my findings that the proposal would not represent sustainable development, the Framework's presumption in favour of such development would not apply, even if it had been demonstrated that the HLS was less than five years.

42. The benefits of the scheme set out above, including the provision of housing to boost significantly the supply in accordance with the Framework, must be afforded considerable weight in favour of the proposal. However, the very recently adopted Local Plan Part 1 has been found to meet the district's objectively assessed housing needs. Although this is not a ceiling, the weight I attribute to these benefits would not outweigh the conflict with Policies EV1, BNE1 and BNE4 and the harm that this unsustainable development would cause to the character and appearance of the area.
43. The s106 contributions to mitigate some of the impacts of the proposal are set out in my preliminary matters section above. These obligations would not outweigh the overall harm identified, and in view of my conclusion, there is no need for me to consider their compliance with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

Conclusion

44. For the reasons given above, the appeal is dismissed.

Anthony Lyman

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jack Smyth of Counsel	Instructed by Angela Edwards – South Derbyshire District Council
He called	
Sue Highley	Project Engineer, Derbyshire County Highway Authority
John Nuttal BA (Hons) MA CMLI	Landscape Architect, Parkwood Consultancy Services
Ian McHugh DipTP MRTPI	IMch Planning and Development Consultancy

FOR THE APPELLANT:

Satnam Choongh of Counsel	Instructed by Tom Collins of Fisher German LLP
He called	
Simon Tucker BSc (Hons) MCIHT	David Tucker Associates
Ben Wright BA (Hons) DipLA CMLI	Aspect Landscape Planning Ltd
Tom Collins BA (Hons) MSc MRTPI	Fisher German LLP

DOCUMENTS

1. Opening submission on behalf of the appellant
2. Copy of appeal Decision APP/F1040/W/15/3121527
3. Extract from Journal of Planning Law re extent of duty on local planning authority to negotiate
4. Letter from Derbyshire County Council dated 14 November 2014
5. Updated housing statistics
6. Letter from Squire Patton Boggs (UK) LLP dated 20 April 2016
7. Completed s106 Planning Obligation dated 20 April 2016
8. Copy of 'The 6Cs Design Guide, Part 1'.
9. Copy of the GLVIA – Third Edition
10. Closing submissions on behalf of the Council
11. Closing submissions on behalf of the Appellant
12. Application for Costs on behalf of the local planning authority
13. Appellant's response to the costs application



Costs Decision

Inquiry held on 19 -21 April 2016

Site visit made on 20 April 2016

by Anthony Lyman BSC (Hons) DipTP MRTPI

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

Decision date: 16 June 2016

Costs application in relation to Appeal Ref: APP/F1040/W/15/3132831 Cauldwell Road, Linton, Derbyshire, DE12 6RZ

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by South Derbyshire District Council for a partial award of costs against Investin Properties (Jersey) Ltd.
 - The Inquiry was in connection with an appeal against the refusal of outline planning permission for the erection of up to 61 dwellings (all matters reserved)
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The basis of the Council's procedural claim is that the appellant acted unreasonably by deviating from a claimed agreed position between the parties relating to the provision of a pedestrian link between the proposed development and the village. The highway authority had insisted on a footway adjacent to the highway as shown on the original plans for the appeal scheme. In a subsequent revised application the position of the link was moved mostly to within the site to reduce adverse impact on the highway hedge. That application was also refused by the Council, with the highway authority confirming that the proposed internal footpath was not acceptable. For the reasons set out in my parallel Decision, the Inquiry proceeded on the basis of the revised scheme with the agreement of the Council.
 4. The Council state that until the appellant's proofs of evidence were submitted, it had not been known that the appellant would submit highway evidence to defend the revised position of the pedestrian link. The costs application claims that the Council, at short notice, then had to instruct a consultant to prepare and submit a proof of evidence, reconvene with its advocate on this matter, and call a further witness to give evidence at the Inquiry. The cost of the preparation of this proof and the attendance of the witness at the Inquiry forms the basis of the Council's claim.
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5. The Council's application sets out a chronology of events and actions up to the date of the Inquiry, supported by emails, to illustrate the basis of the application. The Council claim that there were multiple opportunities for the appellant to advise of its disagreement over the pedestrian link that had previously been an agreed matter. The failure to do so, according to the Council was unreasonable. The Council also make reference to the Statement of Common Ground (SoCG) which did not identify a disagreement between the parties in respect of highway matters.
6. However, before the appellant's submission of the proofs of evidence, the Council were aware that the appellant had asked for the appeal to proceed on the basis of the revised plan for 61 dwellings, which included the internal footpath link to which the highway authority objected. The Council's planning proof of evidence acknowledged that it was for the Inspector to determine whether to accept the revised plan, and confirmed that the Council's case was structured to consider both scenarios. The SoCG signed by the Council, states that *the Council does not object to the plan being substituted*. Paragraph 7.1 of the SoCG also confirms that revisions to the list of proposed conditions would be necessary if the Inspector agreed to proceed on the basis of the revised plan. These changes largely related to the addition of 'access' to the reserved matters and the wording of condition 19 relating to the pedestrian link.
7. Given that the highway authority continued to object to the footpath shown on the revised plan, (which was one of the main reasons for the revision), it should have been obvious that the footpath/footway was going to be a matter in dispute at the Inquiry and that it would be necessary for evidence to be submitted to support the parties' different positions. Irrespective of the number of witnesses indicated at the start of the appeal, it was not unreasonable for the appellant to provide a highway proof of evidence on the matter within the required timescale.
8. I am not persuaded by the applicant's argument that the appellant prolonged the Inquiry proceedings by introducing a fresh issue that required the Council to instruct a highway consultant at short notice under some duress.
9. I find, therefore, that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. A partial award of costs is not justified and the application is refused.

Anthony Lyman

INSPECTOR



Appeal Decision

Site visit made on 17 May 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 27 May 2016

Appeal Ref: APP/F1040/W/15/3139898

Land at Sealwood Lane, Overseal, Swadlincote DE12 6JP

- 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 J Read against the decision of South Derbyshire District Council.
 - The application Ref 9/2015/0796, dated 25 August 2015, was refused by notice dated 29 October 2015.
 - The development proposed is erection of four dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I understand that the examination of the South Derbyshire Local Plan Part 1 (SDLP) is now complete and that following consultation on final modifications to the SDLP the Inspector's report has been published. It is likely that the SDLP will be adopted by the Council very soon. Though not referred to in the Council's reason for refusal, reference has been made to Policy BNE1 of the SDLP in the Council's statement. The policy relates to the design of developments. As such, given the advanced stage of the SDLP, in reaching my decision I have had regard and given weight to Policy BNE1 of the SDLP.

Main Issue

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

Reasons

4. The appeal site comprises a piece of land located adjacent to Sealwood Lane in an elevated position relative to Green Lane. It contains a number of existing buildings located centrally within the site and also contains a steel container located nearer to Sealwood Lane. The appeal site previously formed part of Coppice Farm, with part of the farm site adjacent to the appeal site having recently been redeveloped and containing two dwellings, including a two storey dwelling and detached garage nearest to the appeal site. The site is currently overgrown and there is significant hedging along part of the Sealwood Lane frontage and along the side boundaries. Sealwood Lane is a public right of way (PROW) and there is another PROW adjacent to the rear boundary of the site.

The immediate surrounding area is semi rural in character and appearance with only a small number of dwellings on Sealwood Lane. Green Lane is more residential in character and largely contains single storey dwellings set back from the road.

5. The proposal to construct four dwellings would significantly increase the amount of built development on the site. Unlike the existing buildings which are located centrally within the site, the dwellings would be located in much more prominent positions. The detached dwellings would be closer to Sealwood Lane, forward of the recently constructed dwellings at Coppice Farm. The north east elevation of the dwelling to the rear of the site would run parallel to and be in close proximity to the adjacent PROW and would span a significant part of the length of the rear boundary. Though the dwellings would in the main be one and one and a half storeys, the scale of building on site would nevertheless be relatively large compared to the existing buildings and the size of the site particularly given that one of the detached dwellings would have a two storey gable fronting onto Sealwood Lane.
6. The scale of the dwellings together with the formation of roadside parking spaces, the vehicular access to tandem development to the rear and the amount of hardstanding proposed means that the site would appear cramped and out of keeping with the semi rural character of the immediate surrounding area. I note the appellant's view that the development is self contained on the edge of the built up area, the attempt to mimic the layout of a farmstead and the use of traditional design details and materials, however none of these matters overcome the harm that would result from the proposal.
7. Though I acknowledge that there is a mix of property styles and sizes in the vicinity of the site, most of the dwellings nearby are located on Green Lane which is much more residential in character than Sealwood Lane. I acknowledge that the appeal site is presently overgrown and the existing buildings dilapidated. However whilst the current appearance of the site does not make a positive contribution to the appearance of the area, this does not justify the proposal which would be harmful to the character and appearance of the area.
8. Taking the above matters into consideration, I conclude that the proposal would have a significant adverse effect on the character and appearance of the area. It is therefore contrary to Housing Policy 11 of the South Derbyshire Local Plan and to Chapter 7 of the National Planning Policy Framework (the Framework). These policies seek, amongst other things, buildings that are well designed for their purpose and their surroundings. Though I note that the appellant has questioned the relevance of Housing Policy 11, I am satisfied that it is relevant to the proposal. The proposal is also contrary to Policy BNE1 of the SDLP which requires, amongst other things, new development to be well designed and to create places that respond to their context.

Other Matters

9. At the time of making the decision the Council could not demonstrate a five year supply of deliverable housing sites and did not object to the principle of residential development on the site despite it being outside of a settlement boundary. Though the Council has suggested that it will have a five year housing land supply once the SDLP is adopted, until that time and in line with

paragraph 49 of the Framework relevant policies for the supply of housing should not be considered up to date.

10. Paragraph 14 of the Framework states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
11. The proposal would have some modest economic benefits by providing employment during the construction period and by supporting the local economy. The proposal would provide four additional dwellings in a reasonably sustainable location close to other dwellings and contribute to the range of housing available in the local area. However these benefits would be limited given the small number of dwellings proposed. The adverse impact of the harm to the character and appearance of the area would significantly and demonstrably outweigh these limited benefits when assessed against the policies in the Framework taken as a whole and I therefore conclude that the proposal is not acceptable in light of the presumption in favour of sustainable development.

Conclusion

12. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR



Appeal Decision

Site visit made on 3 May 2016

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 13 June 2016

Appeal Ref: APP/F1040/W/16/3144743

The Old Barn, Cockshut Lane, Melbourne, Derby DE73 8DG

- 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 Mrs Margaret Astle against the decision of South Derbyshire District Council.
 - The application Ref 9/2015/0875, dated 18 September 2015, was refused by notice dated 29 January 2016.
 - The development proposed is conversion of existing two storey barn to a dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would constitute inappropriate development in the countryside in terms of local and national planning policy.

Reasons

3. The appeal site is situated in a semi-rural location on rising ground and is visible against the backdrop of a well-defined treeline from Derby Road to the north. There is a distinct visual edge to the built form of Melbourne which is clearly defined by Cockshut Lane approximately 80 metres to the east of the site.
 4. In policy terms, although local policies are of some age, I find them to be consistent with the provisions of Paragraph 55 the National Planning Policy Framework (the Framework). Therefore, the proposal must be considered in that context and the appropriate weight given to the relevant saved policies. Saved Policy EV1 of the South Derbyshire Local Plan (the Local Plan) makes it clear that development outside settlements will not be acceptable unless certain criteria are met. From the evidence before me, the proposal would not be essential for pursuing a rural-based activity. The appellant states that the proposed scheme is not 'isolated' or in the 'true' countryside as there are small clusters of buildings nearby. However, the building is separated from the main built form of Melbourne which has a clearly defined edge in this location.
 5. Saved Policy H7 states that in circumstances such as the appeal scheme, where a building is suitable for conversion, it will be permitted provide that extensive, alteration, rebuilding and/or extension or not required. I note that the appellant's structural report concludes that the building is suitable for
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conversion. Furthermore, the appellant argues that the proposed conversion of the existing barn would involve simple and modest extensions to the ground floor. Whilst this may be so, these extensions would increase the overall floorspace of the building by at least 30%. Although the scheme would be set within the footprint of the building, due to its current condition, much of the original property, such as the rhubarb shed, no longer exists. The existing barn is in a very poor state of repair and, as I observed on site, extensive works to external walls, the roof and the first floor level would be required.

6. There will inevitably be a need to undertake some alterations to bring an agricultural building into residential use. However, the extent of the works in this case, as identified in the appellant's structural report, would be substantial and excessive and would result in a significant proportion of the building being entirely 'new build'. This change in appearance of the building would have a detrimental and harmful effect on the semi-rural and agricultural character and appearance of the area.
7. In terms of the visual impact of the proposal on its setting, the immediate area around the site is quite open when viewed from the north. The residential nature of the proposal would provide the potential for associated domestic structures to appear. The provision of sheds, greenhouses or similar would be out of keeping with, and have a detrimental effect on, the semi-rural setting of the barn and its appearance. The appellant argues that such concerns could be overcome by conditions relating to landscape and the removal of permitted development rights. Furthermore, the appellant states that the small number of bedrooms proposed would limit the occupancy of the dwelling (i.e. families) and therefore limit the 'additional paraphernalia'.
8. Although the curtilage of the property would be tightly placed around the building, the opportunity for such provision, albeit limited, would only serve to exacerbate the harmful effects of the proposal on its immediate setting and the wider landscape. Consequently, I find that the imposition of conditions in this case, would not mitigate the harm to the character and appearance of the wider area that I have identified as a result of the change of appearance of the building. Furthermore, the alleged limiting effect of only two bedrooms would not prevent such 'additional domestic paraphernalia' which could also be enjoyed by a small household.
9. The appellant points to the removal of permitted development rights for agricultural buildings which do not apply in this case. I note the point made relating to the timing of the proposal. However, I must consider the appeal based on the evidence before me and on the current policy context. In addition, the appellant argues that the proposed works would improve and benefit the structure of the building and enable it to have a secure and viable future. Having considered this and other benefits put forward in support of the scheme, including the provision of a new dwelling, I find that none of them, individually or cumulatively, would outweigh the harm I have identified.
10. I have had regard to the examples of other nearby developments to which I have been referred by the appellant. The details of these examples are not before me. However, I note from the Council's statement that these other developments may have required less extensive rebuilding and involved less intrusive alterations than the appeal proposal. Whether or not this is so, each

case must be considered on its own merits and circumstances. Therefore, I give these other examples only limited weight in my overall decision-making.

11. Consequently, I conclude that the proposal, due to the level of works proposed, would constitute inappropriate development in the countryside and would therefore fail to comply with saved Policies H7 and EV1 of the Local Plan and the Framework. These policies, amongst other matters, seek to ensure that development in the countryside is strictly controlled, that it respects local character and its setting and, with regard to building conversions, should involve a building suitable for conversion without the need for extensive alteration, rebuilding or extension.

Conclusion

12. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR



Appeal Decision

Site visit made on 3 May 2016

by **Zoe Raygen Dip URP MRTPI**

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

Decision date: 31 May 2016

Appeal Ref: APP/F1040/D/16/3147930

Cherry Tree Cottage, 18 Sutton Lane, Hilton, Derbyshire DE65 5FT

- 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 Mark Swift against the decision of South Derbyshire District Council.
 - The application Ref 9/2015/1176, dated 8 December 2015, was refused by notice dated 23 March 2016.
 - The development proposed is erection of side extension to provide garage and first floor study and creation of new vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of side extension to provide garage and first floor study and creation of new vehicular access at Cherry Tree Cottage, 18 Sutton Lane, Hilton, Derbyshire DE65 5FT in accordance with the terms of the application, Ref 9/2015/1176, dated 8 December 2015 subject to the conditions set out in the schedule to this decision notice.

Procedural matter

2. I have amended the description to include reference to the creation of the new vehicular access.

Main Issues

3. The main issues are firstly, the effect of the proposal on the character and appearance of the host dwelling and the area and secondly, the effect of the proposal on the living conditions of the occupiers of 2 Cherry Tree Close with particular regard to outlook, light and privacy.

Reasons

Character and appearance

4. 18 Sutton Lane is a detached house sited at right angles to a residential street. Surrounding properties are semi-detached houses and detached bungalows set within a variety of plot sizes. No 18 is older than most of the surrounding properties and has a unique design within the street scene with a varied roofscape and building form. As a result the area has a mixed character and appearance.

5. The proposed extension would be to the rear of No 18, set back about 5 metres from the road and separated from the main dwelling by a link element which would be lower than the main part of the extension. These factors together with the slightly lower height of the extension than the host dwelling ensures that the extension as a whole, although large, would remain subordinate to No 18. It would therefore be in accordance with the South Derbyshire District Council Supplementary Planning Guidance Extending Your Home (the SPG) which advises that where side extensions are acceptable, particularly if higher than single storey, care should be taken to make sure that they look like a smaller part of the main dwelling.
6. The extension would not be seen from the south as it would be screened by No 18. From the north it would be viewed in the context of the host dwelling. The replication of the roof pitch, eaves detailing and materials of No 18 on the extension together with its subordination means that it would sit comfortably in the street scene and maintain the varied roof scape of the dwelling.
7. No 18 sits within a large plot and while the extension would lead to the built form covering a large proportion of the north west of the plot, there would be sufficient space maintained to ensure that the character of the area was not harmed. Moreover the extent of the built form would be similar to that covered by the semi-detached houses in the area and therefore it would not look out of place.
8. For the reasons above I conclude that the extension would not be harmful to the character and appearance of the host dwelling or the area. There would therefore be no conflict with saved Housing Policy 13 of the South Derbyshire Local Plan 1998 (the Local Plan) or the guidance in the SPG which requires that proposals are of a scale and character in keeping with the property and not detrimental to the general character of the area.

Living conditions

9. 2 Cherry Tree Close is a dormer bungalow sited to the north east of No 18. It has a garden area to the rear accessed from patio doors, which wraps around the side of the dwelling. The extension would be sited close to the boundary with the side garden, but further away and at right angles to the main rear elevation of No 2. The extension would be one and a half storeys high, but because of the reduced ground level at No 18 would appear lower when viewed from the garden of No 2. There are no windows in the west side elevation of No 2 with main windows contained within the rear elevation. The SPG requires that two storey extensions do not breach a minimum distance along a 45 degree line drawn from the centre of the nearest ground floor 'primary' window of the neighbouring property. The appellant has submitted a plan showing that the extension would not breach the protected splays to the windows in No 2 as required by the SPG. However, the plan only confirms the contents of the Council's application report and therefore raises no new issues.
10. The SPG does not cover any impact on garden areas. The side garden of No 2 is laid to grass and I saw that there is a sitting out area adjacent to the blank side gable elevation. The extension would be close to the side garden of No 2. However, it would be oriented such that while it may lead to a small amount of shading this would not have a significant impact over and above that already occurring due to trees on the north-west boundary of No 2. Therefore there would not be an unacceptable or overbearing effect. Furthermore due to the

distance of the extension away from the boundary, it would not overshadow the open southern aspect of the garden area to the rear of No 2.

11. I conclude therefore that given the orientation, height and siting of the extension in relation to No 2, and its garden, it would not lead to an unacceptable loss of light or be unduly overbearing.
12. There would be two roof lights inserted into the roof of the extension facing no 2 at a height of 1.7 metres above the floor level. The height of the rooflights would ensure that there would be little opportunity for overlooking towards No 2. Should dormer windows be inserted in the future then, as they would be on the side elevation of the property, they would require planning permission if they were to be clear glazed.
13. The rear elevation of the extension is blank and therefore there would be no opportunity for overlooking to the garden of No 2. However I consider it necessary to remove permitted development rights for windows to be inserted in the rear elevation to prevent the potential for overlooking to occur in the future. Subject to the imposition of this condition I do not consider that the occupiers of No 2 would suffer any unacceptable loss of privacy due to the proposal.
14. For the reasons above I conclude that the proposal would not be unduly harmful to the living conditions of the occupiers of 2 Cherry Tree Close. There would therefore be no conflict with saved Housing Policy 13 of the Local Plan or paragraph 17 of the National Planning Policy Framework which require that proposals should always seek to secure high quality design and a good standard of amenity for all existing occupants of land and buildings.

Conditions

15. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance and have made such amendments as necessary to comply with those documents. In the interests of clarity it is appropriate that there are conditions requiring that the development is carried out in accordance with the approved plans and that materials accord with the details in the application. This would also ensure that the rooflights are provided in accordance with the named plan and therefore a further condition is not necessary.
16. Details of eaves and verge details have been provided on the drawings and therefore I do not consider it necessary to impose conditions in this respect. I have imposed conditions 3, 4, 5 and 6 in the interests of highway safety.

Conclusion

17. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Zoe Raygen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 277/1, 277/2, 277/3, 277/4, 277/5, 277/6 Rev A.
- 3) The development hereby permitted shall be carried out in accordance with the materials detailed in the application form.
- 4) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted extension until details of the access have been submitted to and approved in writing by the local planning authority. The new access shall be implemented in accordance with the approved details prior to the completion of the extension.
- 5) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted extension until details of a scheme to close the existing access and reinstate the kerb has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first use of the new access.
- 6) No structure exceeding 600mm in height relative to the nearside carriageway edge shall be placed for a distance of 2m into the site from the highway boundary.
- 7) There shall be no gates within 5m of the highway boundary.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows shall be installed on the rear north elevation of the extension.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	28th JUNE 2016	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING SERVICES	OPEN
MEMBERS' CONTACT POINT:	STEVE MOTT (ext. 5748)	DOC:
SUBJECT:	VARIATION TO TENURE SPLIT OF AFFORDABLE HOUSING IN RESPECT OF PLANNING PERMISSION FOR 100 DWELLINGS ON LAND AT WILLINGTON ROAD, ETWALL	REF: 9/2013/1040/O
WARD(S) AFFECTED:	WILLINGTON	TERMS OF REFERENCE: PO1

1.0 Recommendations

1.1 That the Committee authorises an amendment to the tenure split for the 30% affordable housing (30 homes) secured through the Section 106 Agreement attached to planning permission ref: 9/2013/1040 from 68% rented properties (20 homes) and 32% intermediate housing (10 homes) to 50% rented properties (15 homes) and 50% intermediate housing (15 homes). The overall level of provision would remain unchanged at 30% (30 homes).

2.0 Purpose of Report

2.1 To amend the tenure split of the affordable housing to be provided at Willington Road, Etwall, pursuant to planning permission 9/2013/1040.

3.0 Detail

3.1 The existing Section 106 Agreement was made in early 2015 having been considered by Planning Committee on 16th September 2014 where it was resolved to grant planning permission subject to, amongst other things, the provision of 30% affordable housing with a tenure mix of 68% would be rented properties and 32% intermediate housing.

3.2 The Section 106 Agreement secures the appropriate amount of affordable housing and tenure mix but also contains flexibility for that split to be amended within it, provided this is agreed in writing by the Council.

3.3 The applicant has advised that in the current market they have been unable to secure an Affordable Housing Provider to transfer the affordable housing at a price which would make the scheme viable for delivery in line with the current split of 68% rented properties and 32% intermediate housing. They have advised that they a viability assessment indicates the development would support 20% affordable housing (50% social rent, 50% shared ownership).

- 3.4 The developer has informed officers that they have been able to secure an Affordable Housing Provider on the basis of the full 30% (30 homes) but with a tenure split of 50% for rent (15 homes) and 50% shared-ownership (15 homes) and that this is viable.
- 3.5 During the determination of the application the applicant proposed and ultimately provided for the full and appropriate level of affordable housing for the scheme with the appropriate tenure split and as such no review of the viability of the scheme was submitted for consideration.
- 3.6 In November 2015 the Housing and Planning Minister Brandon Lewis wrote to all Local Planning Authorities regarding the impact of social rent changes on the delivery of affordable housing. Following the 1% rent reduction announced in the Budget 2015, many Affordable Housing Providers have reviewed their financial commitments. As a result some of the approved or emerging schemes where housing associations are engaged with house builders through Section 106 agreements are at risk of not being built out. The primary reason being a reduced offer to purchase the affordable housing is making some schemes not financially viable.
- 3.7 In the letter from Brandon Lewis, he stated that *“where it is simply proposed that the tenure mix is adjusted, with the overall affordable housing contribution remaining the same, it is our view that this is unlikely to justify reopening viability on either side.”* It is considered that the revised tenure split is acceptable without need for a viability review being undertaken on the basis that this is not a significant change and does not justify the cost to the Council or the applicant in undertaking a viability review.
- 3.8 As the Section 106 Agreement has sufficient flexibility contained within it to allow the change to the tenure split to be agreed in writing, no formal Deed of Variation is required in this instance. However, authority is required from Planning Committee because the resolution of Members at the meeting specified the provision of a tenure split 68% rented properties (20 homes) and 32% intermediate housing (10 homes).

4.0 Financial Implications

- 4.1 As no Deed of Variation is required, nor any associated legal costs for producing it, there are thus no financial implications for the Council.

5.0 Corporate Implications

- 5.1 None

6.0 Background Papers

- 6.1 File reference 9/2013/1040 and letter from Brandon Lewis MP, Minister of State for Housing and Planning dated 9th November 2015.