

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

This section includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) and responses to County Matters.

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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

Item 1.1

Reg. No. 9/2009/0093/FH

Applicant:

Mr David Memmory
11 Pinfold Lane
Repton
Derby

Agent:

Matt King
Making Plans
Ivy Lodge Twyford Road
Willington
Twyford Road
Derby

Proposal: The erection of detached garage at 11 Pinfold Lane
Repton Derby

Ward: Repton

Valid Date: 04/02/2009

Reason for committee determination

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

Site Description

The site lies within the locality of Repton and is in excess of 30m from the Repton Conservation Area. The application property is a mid terrace dwelling with rear access via a drive between No.7 & No.9 Pinfold Lane, which is also a public footpath.

There are a number of single storey garages and outbuildings to the rear of the row of terraces that are accessed at the rear via the aforementioned drive. To the North of the drive and rear of the properties is a heavily wooded area.

Fencing and hedges form the side boundaries to the rear garden of the application property, although the site is currently partly open to the east where the structure of No.13 Pinfold Lane is sited.

Proposal

The proposal is for a single storey garage and gym approximately 5m from the rear north boundary.

Applicants' supporting information

None

Planning History

An application for a 1½ storey structure for garage and residential office was submitted under planning reference 9/2008/0851/FH. This application was refused due to it being out of character with its locality.

Responses to Consultations

None.

Responses to Publicity

Occupiers of neighbouring properties have objected as follows:

- ❑ the structure is not in keeping with the area as it is too large.
- ❑ it is felt that the structure will be open to future change of use.
- ❑ the sewers are not capable of taking extra sewerage, flooding is a concern.
- ❑ privacy of neighbouring properties will be compromised.
- ❑ the drive used to access the rear of the properties will deteriorate with the extra use necessary for construction.
- ❑ the foundations may encroach upon their land.
- ❑ increased use of the drive by vehicular traffic using the proposal

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policy 13

Planning Considerations

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

- design of the proposal
- its suitability in its location
- the effect upon neighbouring properties.

Planning Assessment

This amended proposal is of an acceptable design as it is more characteristic of the single storey garden structures found in the rear gardens of the other terrace properties in this row.

The boundary treatments and the structures single storey nature ensure that there are no overlooking issues affecting neighbours.

The site is not within a designated flood zone where we are required to consult the Environment Agency and sewerage implications are not a consideration of a planning application.

With regard to concerns of neighbours we can only determine the application as submitted. Should the applicant at some future date wish to change the use a further planning application will be required.

Foundations encroaching upon neighbouring properties and the increased use of the shared drive are civil issues than cannot be considered during the course of a planning application.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.

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

Item **1.2**

Reg. No. **9/2009/0191/OS**

Applicant:

Trustees Of Gresley Old Hall Community
Welfare Centre
Gresley Old Hall
Church Gresley
Swadlincote

Agent:

Mr Thomas Redfern
Thomas W Redfern Chartered Town
Planner
36 Pennine Way
Ashby de la Zouch

Proposal: **Outline application (all matters except means of access, landscaping and layout to be reserved) for the residential development of Land off Gresley Wood Road Church Gresley Swadlincote**

Ward: **Gresley**

Valid Date: **04/03/2009**

Reason for committee determination

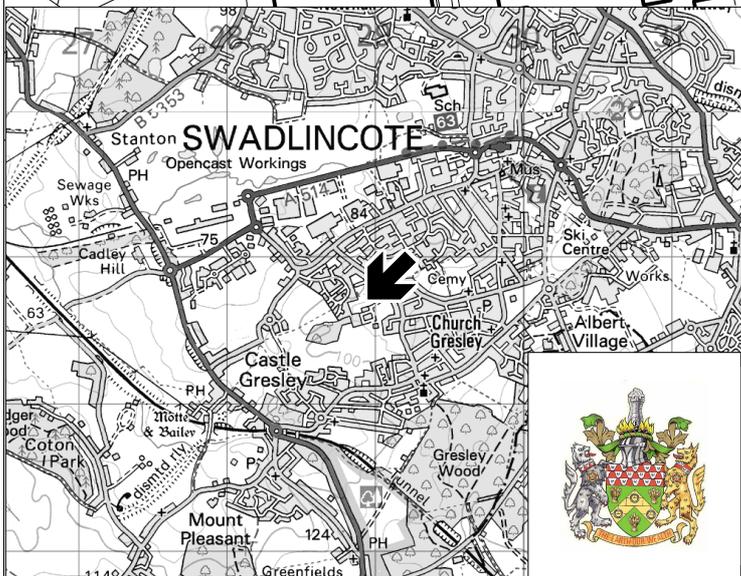
The application is brought before the Committee because there are differing views with regard to priorities for the spending of contributions which Member's must resolve.

Site Description

The site, amounting to 1.5 hectares, lies 1 mile south west of Swadlincote town centre. It is close to the junction where George Street meets Gresley Wood Road in Church Gresley. The entrance to Gresley Old Hall runs along the southern part of the site and the Old Hall itself is to the south east. The sports ground is to the south and residential properties on Gresley Wood Road are to the east. Public footpath No. 38 bounds the site to the north with some garden areas and allotments over this boundary. There is a gradual slope from the entrance road to Gresley Old Hall to the south and the footpath to the north with the total change in land level being 6.5m. From Gresley Wood Road to the north east and to the south east part of the site there is a 2.5m change in land level.

The site was used as agricultural land in the 1950s but its present use is grassed waste land forming part of the curtilage of Gresley Old Hall. The steep slope of the southern boundary was formed by tipping operations from colliery waste. Informal tracks through the site have been formed where people cross the site. There is a hedge that runs along the northern boundary adjacent to the allotments but the site does not have any trees of merit.

9/2009/0191/OS - Land off Gresley Wood Road, Church Gresley



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Proposal

Outline planning permission is sought for residential development with access, landscaping and layout to be approved and appearance and scale to be considered at reserved matters stage. Twenty eight dwellings are proposed.

The proposed access from Gresley Wood Road would be centralised and would serve both the development and the Gresley Old Hall complex. An area of landscaping is proposed to the south of the access adjacent to the existing shop. An entrance wall feature and landmark building are proposed at the entrance to the site with two semi-detached properties to the rear of this building. A tree lined boulevard would follow the road along the southern boundary and a circular area of open space is proposed in the centre of the site. The access road would run to the north east of the public open space and terraced and semi-detached properties would curve around this road. Eight detached properties are proposed in the western part of the site with some facing onto the open space and some facing the northern boundary.

The existing footpath No.38 would be retained as part of the proposal and links through the site would be improved. Landscape buffers are proposed on parts of the northern boundary. Rear parking courtyards are indicated for some dwellings together with driveways with frontage parking. Sixty nine car parking spaces are proposed.

Design Brief entitled 'Gresley Old Hall and Estate - informal design guidelines prepared by officers in spring 2008 recognised the declining condition of the Hall and noted that any development should respond to the open character in respect of scale, massing and density. It is proposed to utilise the revenue from the sale of the land with residential planning permission, for the refurbishment and extension of the Hall complex.

Applicants' supporting information

The following documents and plans were submitted with the application:-

Design and Access Statement

Supporting letter outlining the affordable housing issue

Three dimensional plan

Access Study and Access Study Update Note

Site access design

Vehicle swept path analysis

Tree Survey

Proposed indicative cross sections

Planning History

9/2004/0258 - The erection of a mining memorabilia display, granted 28/4/04

9/2000/893 - The erection of a replacement lattice tower 15 metres in height together with 6 cross polar antennas and 3 dishes together with an associated equipment cabin, no objection, 31/10/00

9/2000/0443 - The continued use for Sunday morning car boot sales, granted 12/7/00

9/1992/0361 - The siting of two portable buildings to provide accommodation for the Saint John Ambulance Brigade, granted 17/7/92

9/1989/0047 - The retention of a 14 metre high security lighting tower on land to the east of the Miners Welfare Centre Building, granted 24/5/89

9/1982/0341 - The laying out of a golf driving range and the erection of a covered driving position of the western side of the sports field, granted 18/6/82

Responses to Consultations

County Highways Authority – Whilst the proposal is acceptable in principle the following issues should be resolved. Visibility splays of 2.4m x 30m are required where the internal access road meets the boulevard and where the access road meets the access to rear of properties on George Street. Plots 3-15 should be provided with 2 car parking spaces. The public footpath No.38 should be made up to adopted highway standard including street lighting where this passes within the site boundary. Two planning conditions are recommended in relation to the provision of the Gresley Wood Road access and the laying out of the estate roads prior to the occupation of the dwellings.

Severn Trent Water Ltd – No objection subject to conditions relating to a drainage scheme and no building or trees planted with 5m of the public sewer that crosses the site.

Derbyshire Police Crime Prevention Design Advisor – The footpath along the northern boundary has the potential to be a crime generator therefore it should be improved as part of the application by increasing its width to 3m with lighting and to adoptable standards. Rear accesses from garden areas and parking areas should be enclosed by 2m high boundary treatments. The detailed landscaping scheme should address areas where short cuts could be formed and the area to the north of the existing shop should be carefully considered in order to prevent the congregation of youths through the use of pronounced slopes and spiky shrubs. Communal parking areas should be gated and pedestrian gates should be lockable.

Derbyshire County Archaeologist – There is a potential within the site for buried archaeology of medieval date which is enhanced by the fact the site does not appear to have been developed during the post-medieval period. Recommends a condition requiring the implementation of a programme of archaeological work.

Contaminated Land Officer – Due to mining operations and infilling of land a contamination condition is recommended.

Tree and Landscape Consultant – The hedge along the northern boundary is important and requires careful retention. The trees on the site are low in quality.

Derbyshire County Education – Seek a contribution based on 28 dwellings generating 5 primary age pupils at a multiplier of £11,276 per pupil giving a total of £56,380 towards extension of existing buildings at the infant school and junior schools. No contribution for secondary provision is required.

Housing Strategy Manager – seeks provision of 40% affordable houses on the site.

Responses to Publicity

Three letters of comment have been received from neighbouring properties and their concerns are as follows:-

- Drainage concern with regard the sewerage and store water from the site overloading the Heathcote Road sewers
- Impressed with the plans
- Dog litter bin be retained or moved
- Adequate street lighting be provided to prevent youths from congregating
- Provision of litter bins on site
- Adequate landscaping be provided to prevent overlooking of their property on Wye Dale
- Proposed access through public open space and access to the Old Hall be retained as it is used by dog walkers.
- Congregating youths may use car parking area adjacent to their boundary
- Loss of green space
- Drain on community resources such as schools, dentists and doctors.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: Policies 2, 3, 27, 48

Local Plan: Housing Policies 4 & 11, Environment Policies 10, 13 & 14, Transport Policy 6, Recreation & Tourism Policies 4 & 8

National Guidance

Planning Policy Statement 1 : Delivering Sustainable Development

Planning Policy Statement 3 : Housing

Planning Policy Guidance 15 : Planning and the Historic Environment

Planning Policy Guidance 16 : Archaeology and Planning

Planning Considerations

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

- Principle of residential development
- Layout and impact on Gresley Old Hall
- Residential amenity
- Landscaping
- Highways
- Other issues raised by public consultation

Planning Assessment

Principle of residential development

The site is located within the urban area of Church Gresley and although a previously undeveloped piece of land it forms part of the wider curtilage of the Old Hall leisure complex and as such can be deemed 'brownfield'. Residential use is therefore acceptable in principle.

Layout and impact on Gresley Old Hall

The layout proposed provides an open character with the tree lined boulevard and low density housing nearest to the southern boundary with the Old Hall with landscape

buffers in between. The landmark building and feature wall at the entrance to the site serves to positively contribute to the area and acknowledge the importance of the Old Hall. The tree lined boulevard would improve the building's physical setting. The area of open space in the centre of the site serves to create the open character which blends with the character of the land surrounding the Hall. The provision of rear parking courtyards and bin storage areas help to reduce the urban feel of the area. Sufficient private garden areas have been accommodated in the scheme.

Some conditions in relation to the layout plan are required as a result of the consultation responses outlined above. The footpath No.38 along the northern boundary shall be increased in width to 3m and shall be to adoptable standard to reduce the fear of crime and increase its use. In light of the Conservation Officer's comments a change to the position of plots 2 and 3 shall be made in order to reduce their visual prominence in relation to the landmark building. It was also felt that the main aspect of this landmark building should face Gresley Wood Road and this shall be included as an informative on any permission.

Residential amenity

The nearest residential property is on Gresley Wood Road adjacent to the access. The landmark building would be set 6.5m forward of this property, however, due to the distance and angle between the property and the proposed building, the building would not cut the 45 degree angle taken from this properties nearest front window. The rear elevations of plot 2 and 3 would be 11 and 12 m away from the boundary of the rear garden of this property which is considered to be an acceptable relationship. The rear elevations of the proposed terraced properties would be 40 m from the rear elevations of properties on Gresley Wood Road. 132 and 132 A Gresley Wood Road have 35-39m rear gardens adjacent to the footpath on the northern boundary of the site therefore overlooking is not considered significant as the space standard between main aspects of properties is 21 m. The nearest property to 83 Wye Dale would be 19m and this accords with the Council's space standards.

Landscaping

A concept landscaping scheme has been submitted due to the importance in relation to the character of the area and wish to secure the boulevard and landscaping buffers at this outline stage. Details of planting shall be controlled by condition. The scheme is considered to meet the remit of creating an open area with green spaces which compliments the surrounding area and remainder of the curtilage of the Old Hall. The dwellings would not be highly prominent due to the screening proposed. The hedge along the northern boundary shall be retained by condition.

Highways

County Highways have also undertaken extensive pre-application discussions with the agent in order to establish an acceptable layout. An amended plan indicating the required visibility splays and additional parking has been submitted. Due to the level of parking provision the area should not be dominated by on-street parking. The improvements to the footpath are considered to be beneficial to the area as a whole due to increased security which will increase its usage.

The state of the Old Hall

In 1953 Gresley Old Hall became a Miner's Welfare Centre and has been used as a social welfare facility with the surrounding fields and allotments formed into car parks and sports facilities. The building has been extended with unattractive modern additions over the years and immediately to the west of the Old Hall is a large indoor bowling green.

The two upper levels of the Old Hall building have not been used for many years as the accommodation does not fit with the current pattern of use of the building, and to bring them into use would require extensive internal re-fitting and renewal of services. For the moment, the main priority for the historic building must be to keep the external shell safe from accelerated deterioration, which is a serious risk if action is not taken soon. Works required include re-forming and re-lining of lead-lined gutters, repointing / rebuilding of chimneystops, re-pointing and making good of tiling to verges, plus repair / reinstatement of lead flashings to abutments between roofs and chimneys and repointing of open joints and replacement of eroded brickwork to name but a few.

Other issues raised by public consultation

In relation to drainage, a condition requiring the submission of a drainage scheme shall be placed on any permission. The provision of dog litter and litter bins shall be considered in relation to the detailed design of the improved footpath. Street lighting along this footpath and within the development which would help to reduce youths congregating shall be considered in detail at reserved matters stage. A 9 m wide landscaping strip is proposed adjacent to 83 Wye Dale and the detailed planting will be controlled by condition. Overlooking of properties on Wye Dale will be assessed at reserved matters stage. The footpath and access through the development site would be maintained. Contributions will be secured through a unilateral undertaking to ensure provision for open space, education and healthcare facilities.

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.

Conclusion

The proposed layout is in accordance with informal guidance and that of national, regional and local plan policies outlined above. Concerns can be overcome by condition or at the reserved matters stage.

A unilateral undertaking has been submitted offering contributions for open space, healthcare facilities and education to meet the needs generated by the development. 40% affordable housing units would also normally be required.

It is understood that the Trust seeks to sell the land with the benefit of planning permission so that funds become available to improve the facilities at the complex. However, due to the cost implications that would affect the viability of the refurbishment of the Old Hall itself the applicant has offered a figure that equates to 40% of the open market value for the refurbishment works of the Old Hall in lieu of affordable housing provision. A viability report demonstrating how much that would be has been requested and will be reported verbally at Committee. Given the poor state of repair of the Grade II

Listed Building, a greater weight has been placed by planning officers on the need to save it than on the provision of affordable housing given that the site is located in an urban area where there is a greater choice of housing available. Members have a choice and may wish to see all of the contributions as set out below used towards the restoration of the historic building.

Recommendation

That subject to the receipt of a signed unilateral undertaking for the provision of £372 per person for open space, £220 per person for outdoor facilities and £122 per person for built facilities, a Gresley Old Hall Refurbishment sum which equates to 40% of the open market value of the site, £56,380 for education and £15,428 for healthcare provision **GRANT** permission subject to the following conditions:

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

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

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

2. Approval of the details of the scale and appearance 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 shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the existing and proposed levels and contours to be formed, showing the relationship of the proposed mounding to existing vegetation and surrounding landform.

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

4. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

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

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

D) If required by the conceptual site model, no development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

5. 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.

6. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

7. No building shall be erected or trees planted within 5 metres of the public sewer that crosses the site.

To maintain essential access for maintenance, repair, renewal and to protect the structural integrity of the public sewerage system.

8. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

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

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

10. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

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

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

12. Prior to commencement of development the new estate junction onto Gresley Wood Road shall be completed in accordance with details first submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

13. Prior to the occupation of any of the dwellings the estate roads shall be constructed to at least base course level, with road drainage and street lighting in accordance with the County Council's specification for estate streets.

Reason: In the interests of highway safety.

14. The definitive public right of way footpath No. 38 shall be widened to 3 metres adjacent to northern boundary of the site and made up to adopted highway standard including street lighting.

Reason: To improve the security of the footpath and increase its usage.

15. An amended layout for plots 2 and 3 shall be submitted with any reserved matters application.

Reason: As this part of the layout does not have an acceptable relationship with the landmark building at the entrance to the site.

16. The hedge on the northern boundary of the site shall be retained.

Reason : To safeguard the appearance and future well-being of the hedge in the interests of the visual amenity of the area.

Informatives:

The applicant may wish to apply to Severn Trent Water to divert the sewer that crosses the site in accordance with section 185 of the Water Industry Act 1991.

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

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

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

The applicant's attention is drawn to the comments of Derbyshire Police Crime Prevention Design Advisor which are enclosed.

The main elevation of the landmark building at the entrance to the site should face Gresley Wood Road.

Item **1.3**

Reg. No. **9/2009/0212/FH**

Applicant:

Mr Kevan Atkin
The Grange
Twyford Road
Barrow-on-Trent
Derby

Agent:

Mr John Steedman
Steedman Planning Ltd
Tournament Way
Ashby De La Zouch

Proposal: **The erection of an extension and front wall at The Grange Twyford Road Barrow-on-Trent Derby**

Ward: **Aston**

Valid Date: **17/03/2009**

Reason for committee determination

The application site address is the same as that of the Aston Ward Councillor.

Site Description

The application site is a late 18th century Grade II listed 3-storey farmhouse on working farmland at the north-western edge of Barrow on Trent village.

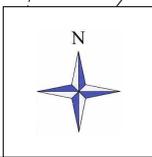
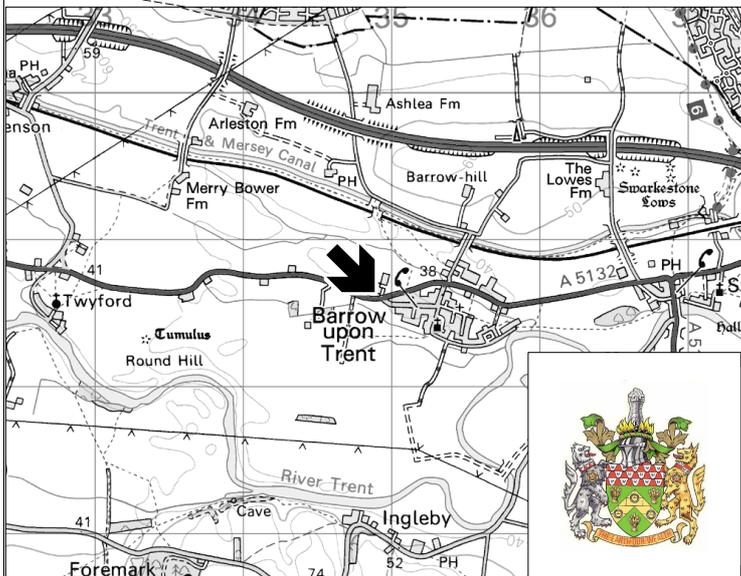
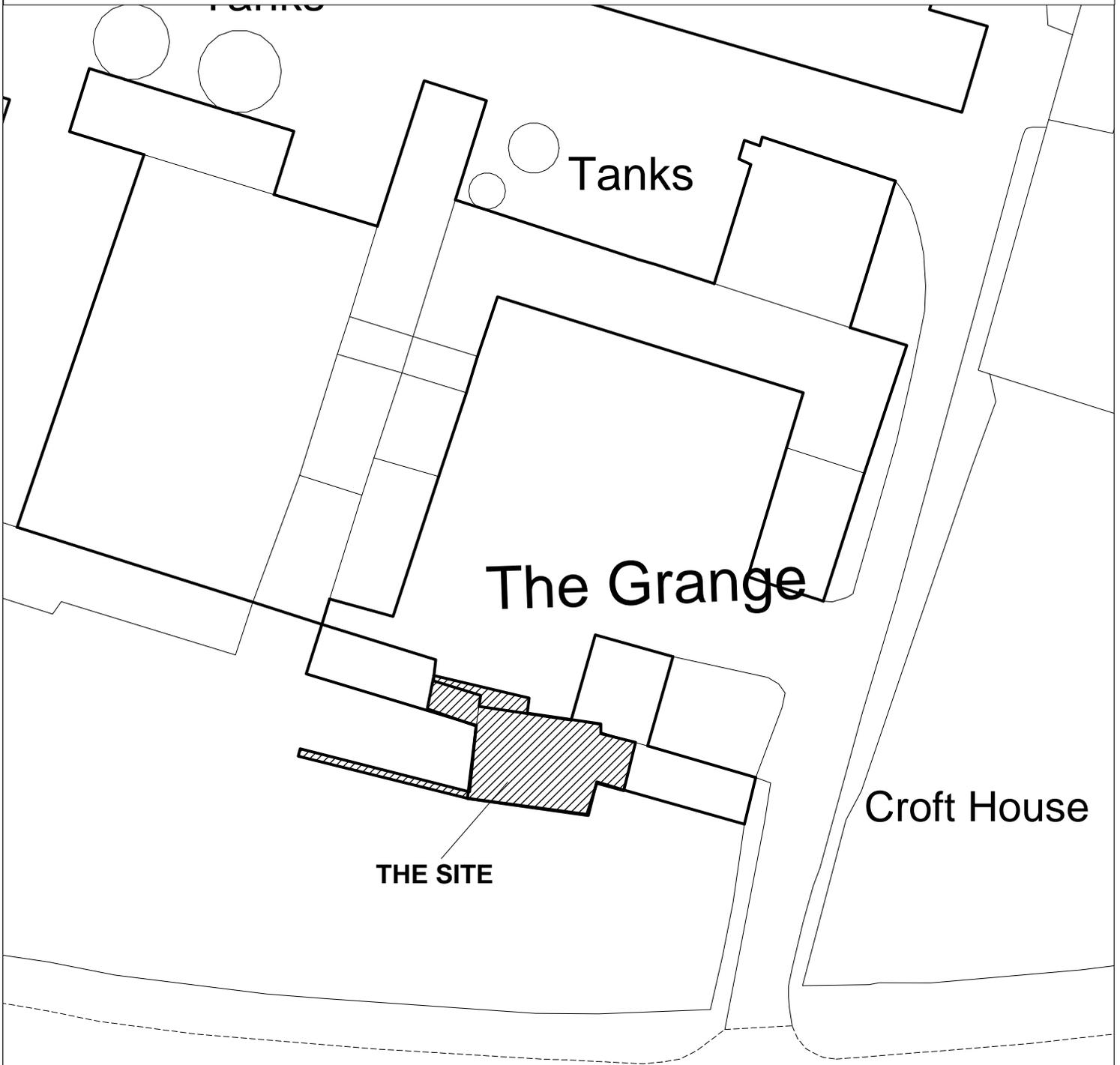
Proposal

The erection of a single storey rear extension and a 2.4 to 3 metre high wall attached to the front corner of the listed property to form a private amenity area. The works also include material alterations to the exterior and the interior of the main listed dwelling house.

Applicants' supporting information

The Grange is a typical farmhouse of the locality with an imposing road façade and in a form that is typical of its genre with regard to its internal layout. The main farmhouse fronts a traditional farmyard with many of the surrounding curtilage buildings having been subject to some alterations over the years.

It is considered that the small scale and simple design of the proposals would have no adverse impact upon the character of the farmhouse. The farmhouse will still make a strong statement as to its genre and pedigree despite the addition of the small functional extension. The addition of the extension will not result in the loss of any significant features of the building or detract from its setting to any greater degree than the alterations that have already taken place with the evolution of the farm itself.



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The proposal is not of a scale that will have any effect on the social structure or the economic characteristics of the area.

The proposal does not raise either RSS or Structure Plan issues and the development is felt to accord with all the relevant policies in the South Derbyshire Local Plan and the adopted Housing Design and Layout SPG.

The design of the extension has been kept simple and will provide a laundry room with toilet and shower room for use by the farmer at the end of his working day. It is considered commensurate with the size of the existing building and will not have an impact on the layout of the site.

The utility room extension will not necessitate additional landscaping and all existing landscaping will be retained alongside the proposed front wall.

The proposal is not of a scale that will impact on the existing access arrangements.

Planning History

Previous applications relate to the erection of agricultural buildings associated with the farm business with the latest being in 2003.

There are no previous applications recorded for the application site.

Responses to Consultations

Any responses received during the consultation period will be verbally reported at committee.

Responses to Publicity

Any responses received during the consultation period will be verbally reported at committee.

Development Plan Policies

The relevant policies are:

RSS8: Policy 31

Local Plan: Saved Environment Policy 13 and Housing Policy 13

National Guidance

Planning Policy Guidance 15: Planning and the Historic Environment.

Planning Considerations

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

- ❑ The impact of the proposals on the fabric, character and setting of the Grade II listed "The Grange".
- ❑ The impact of the proposals on the amenities of the neighbouring properties.

Planning Assessment

The plans as originally submitted were not considered by the Heritage Officer to be sympathetically detailed to be in keeping with the character and setting of the listed building. Amended plans have been requested and are expected in time for consideration by Committee.

The amended proposals would not have an adverse effect on the historic fabric, character or setting of the Grade II listed The Grange or the amenities of the neighbouring properties.

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.
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 proposed extension have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The 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. The replacement window to the rear of the listed building shall be inserted in the original position below the existing lintel detail and shall be detailed as an exact replica of the ground floor vertically sliding timber sash window 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. 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.

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 building(s) and the character of the area.

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

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

9. Notwithstanding any details submitted, precise details of the type and size of the proposed rooflight(s) 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.

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

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

11. Pointing of the proposed building(s) 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).

12. 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.

Item **1.4**

Reg. No. **9/2009/0213/L**

Applicant:
Mr Kevan Atkin
The Grange
Twyford Road
Barrow-on-Trent
Derby

Agent:
Mr John Steedman
Steedman Planning Ltd
Tournament Way
Ashby De La Zouch

Proposal: **The erection of a single storey rear extension and a brick wall attached to front elevation of the Grade II listed The Grange Twyford Road Barrow-on-Trent Derby**

Ward: **Aston**

Valid Date: **16/03/2009**

The issues for this item are considered in the Committee Report for item 1.3 relating to application reference 9/2009/0212.

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no.

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 proposed extension have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the existing building and the locality generally.
4. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The 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. The replacement window to the rear of the listed building shall be inserted in the original position below the existing lintel detail and shall be detailed as an exact replica of the ground floor vertically sliding timber sash window 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. 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.

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 building(s) and the character of the area.

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

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

9. Notwithstanding any details submitted, precise details of the type and size of the proposed rooflight(s) 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.

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

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

11. Pointing of the proposed building(s) 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).

12. 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.

Item **2.1**

Reg. No. **9/2008/0707/SGF**

Applicant:

ATL Limited
Burton Upon Trent
Burton Upon Trent

Agent:

John Church
John Church Planning Consultancy
Limited
Victoria Buildings
117 High Street
Chesterfield
Clay Cross Chesterfield

Proposal: **The erection of storage building, construction of access road & use of land for outside storage Land at Woodyard Lane Uttoxeter Road Foston Derby**

Ward: **North West**

Valid Date: **06/08/2008**

Reason for committee determination

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

Site Description

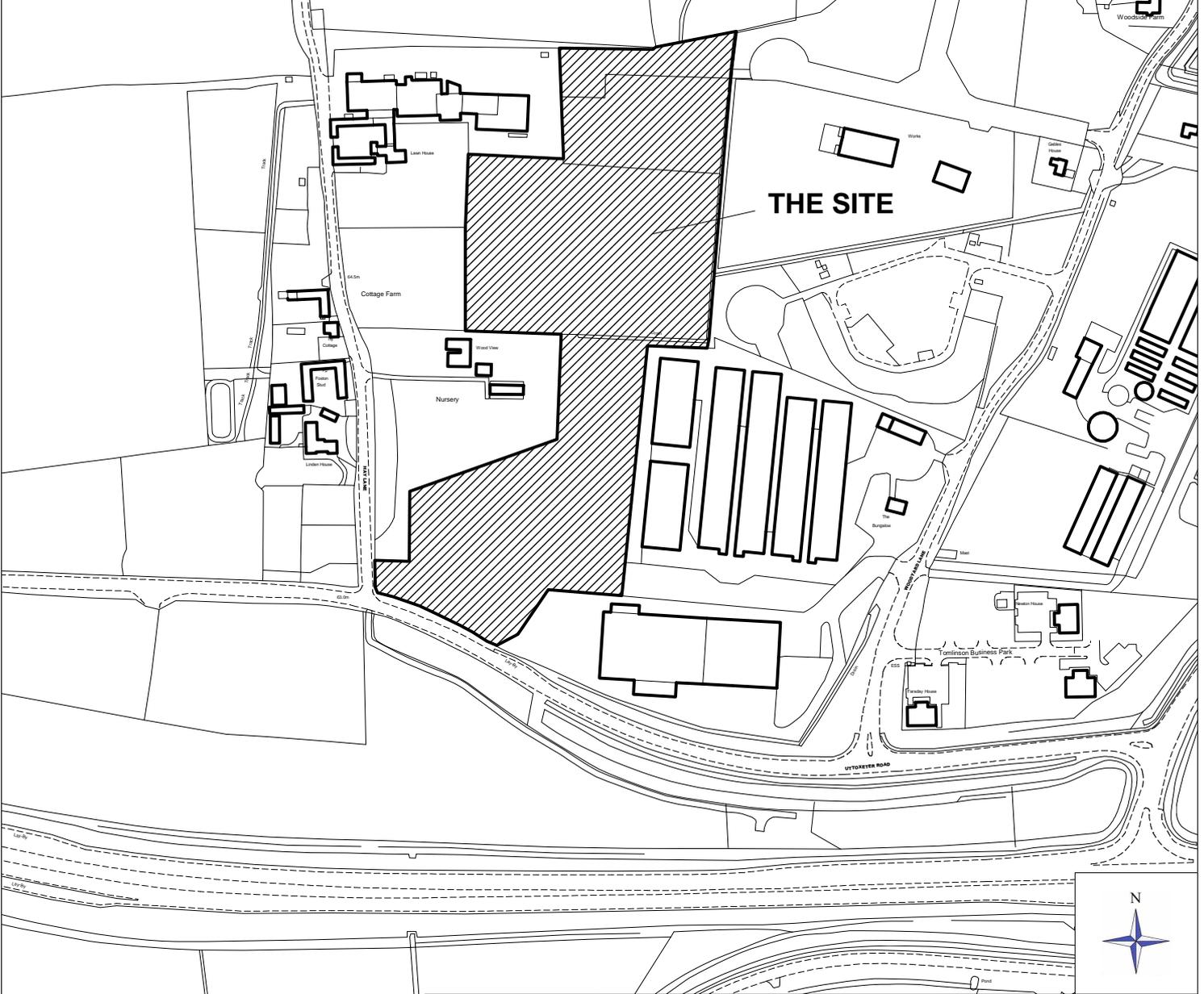
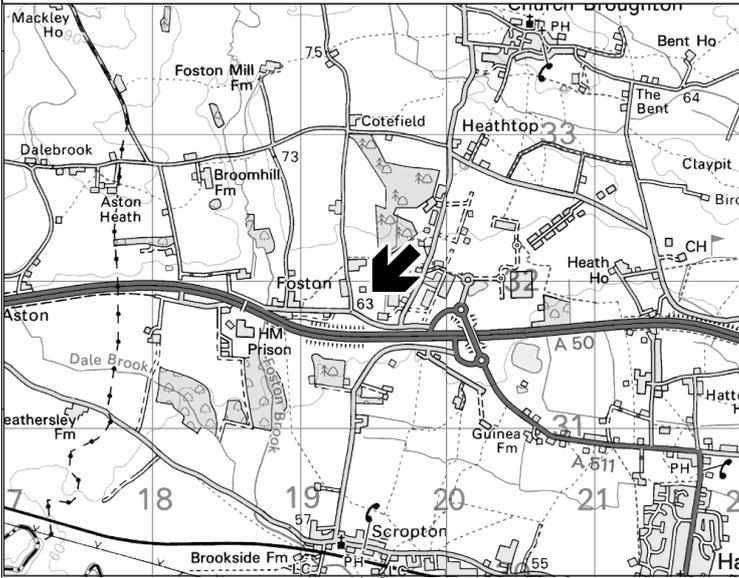
The site comprises mainly fields between the applicant's existing storage and distribution site and Hay Lane. Also included is land subject to the grant of planning permission for a storage unit to the rear of the Elbar Services premises in Hay Lane. The area of land subject to the application is some 4.8 hectares.

Proposal

The main part of the application site would be used for open storage to extend the capacity of the existing storage and distribution business. The maximum height of open storage would be 3 metres (in the south western corner of the site) to 4.5 metres in the first phase of the project (land to the east and south of Wood View Nursery). The land to the rear of the Elbar premises would be subject to a new warehouse of some 3,600 sq m floor area and maximum height of about 14.5 m. The existing Woodyard Lane access would be utilised.

Extensive landscaping is indicated, in particular to the western boundary separating the site from dwellings in Hay Lane to the north of the nursery, where a 2.5 metre high earth bank and acoustic fencing are also proposed.

9/2008/0707/SGF - Land at Woodyard Lane, Uttoxeter Road, Foston



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Hours of operation would be continuous.

The application is accompanied by a Noise Report, a Flood Risk Assessment, and a Lighting Design Scheme.

Applicants' supporting information

- ATL Limited wishes to emphasise that it is vital to the sustainability and growth of the Company as a leading logistics operator in the East and West Midlands Regions that the proposed development is approved. Notwithstanding the widespread impact of the current recession, the Company has not needed to declare redundancies. Its strategy is to be in a key position to meet the demands of the future economic upturn through delivering quality services at the right time to a range of multinational and national businesses.
- Planning permission exists in outline for the building that forms part of the application. It will provide outstanding storage and distribution opportunities but, at present, it is constrained by the need to access it by means of Hay Lane. Whilst the number of vehicle movements are restricted by the terms of the decision to grant planning permission, Hay Lane will be subject, nevertheless, to a considerable volume of vehicle movements including many daily movements by heavy goods vehicles. Under the ATL Limited proposals, the vehicle movements to and from the new building will, however, no longer be required to utilise Hay Lane, if the detailed proposals contained within the planning application are approved. These envisage the new building being accessed from a new internal site road so that all vehicles both entering and leaving the existing ATL premises, the open storage areas and the new building will arrive and depart via the improved access at Woodyard Lane. This has very significant implications of a positive nature for local residential amenities.
- The proposed open storage use will be developed in phases. The first phase is limited to the parcel of land adjacent to the existing buildings where the site is comparatively well screened from both Uttoxeter Road and Hay Lane. Nevertheless, very significant additional landscaping will be provided around the south western periphery of the site. The height of outside storage will be restricted in accordance with assurances already provided to the Council.
- Further very significant landscaping, including the provision of a screen bund along the western periphery of the site where the proposed development is closest to the one large residential property on the east side of Hay Lane, will be implemented. ATL Limited has a strong commitment to its site being located within intensively landscaped surroundings.
- ATL Limited wishes to emphasise the very strong competitive advantages that the Foston location provides, having regard to immediate accessibility to the adjacent A50 junction. There is a growing recognition of the logistical accessibility of this location and of a consequential ability to support a wide range of local employment of all types. Nevertheless, it would not be possible for ATL to grow by it operating from split locations. This would bring with it both logistical difficulties and operational disadvantages arising from the double handling of merchandise.
- Negotiations are at a very advanced stage to involve two key multi-national employers in using ATL's site as their United Kingdom distribution base. The future development that is the subject of this planning application is, therefore, vital to securing this and other long term contracts. The attractiveness of ATL Limited's

site to these two companies alone will bring with it, it is anticipated, 30 new jobs. This is extremely significant when many local employers are laying off staff, rather than attracting new employment.

- It is therefore, vital that the submitted planning application is approved. Finally, ATL Limited wishes to reaffirm its commitment to carry out not only intensive new landscaping but also to ensure that the new building is served for normal day to day purposes exclusively from the new internal site road. Accompanying this assurance is the commitment to limit the height of outside storage within the first phase development.

Planning History

Various permissions have been granted for incremental expansion of the company's existing premises.

Outline permission was granted on appeal for a cold store to the rear of the Elbar Services premise on Hay lane (9/2005/0191). A condition was applied limiting hours and frequency of HGV movements.

Responses to Consultations

Foston and Scropton Parish Council objects for the following reasons:

- a) The development would replace green fields.
- b) Landscaping would be inadequate.
- c) It is not clear whether the proposed building would replace existing temporary storage units.
- d) The drainage may be inadequate.
- e) Light pollution could adversely affect residents.
- f) There would be a 400% increase compared to existing, a huge and unacceptable rise in industry in the village.
- g) There would be increased traffic.
- h) The site is not part of the former MOD site and has never been allocated for industry.
- i) There is allocated industrial land at Dove Valley Park.
- j) A precedent would be set for further industrialisation of Foston village.
- k) Lorries would still use the village as a cut through. Junctions between Hay Lane and Woodyard Lane to Uttoxeter Road have very poor visibility.
- l) There are no footways for pedestrians on either road.
- m) There would be increased noise pollution.
- n) The Parish Council supports the objections of villagers.

Church Broughton Parish Council also objects:

- a) The development would encroach in to open countryside.
- b) This is a Greenfield site.
- c) There is sufficient land at Dove Valley Park.
- d) There is housing close by.
- e) The land is not part of the former airfield.

The Highway Authority considers the principle of development to be acceptable subject to the imposition of conditions requiring improvements to the Woodyard Lane access. It

considers that the proposal would not necessarily result in a decrease in vehicle movements in Hay Lane.

The Highways Agency has no objection.

The Development Control Archaeologist considers that there would be no threat to archaeological interests.

The Pollution Control Manager considers that there would be unacceptable noise experienced by neighbours and recommends refusal of permission on this basis.

The Environment Agency objects because the FRA does not provide sufficient information to enable the flood risks to be assessed.

Responses to Publicity

31 local households have objected as follows:

- a) The proposal would be contrary to the development plan.
- b) There would be a huge increase in business activity at the ATL premises.
- c) There would be increased traffic and highway dangers.
- d) Noise and light pollution would be detrimental to the occupiers of residential properties.
- e) The noise report omits to take account of several near neighbours.
- f) There would be increased disturbance in the wider locality because of increased HGV movements.
- g) The development would be detrimental to the character of the countryside.
- h) The economic needs of the applicant do not justify development in the countryside.
- i) Good quality agricultural land would be lost.
- j) The site is not well placed to provide local employment. Staff would have to travel to the site.
- k) There is other land allocated for such development in the locality.
- l) Proposed landscaping and earth bunds would not alleviate noise to neighbours.
- m) Claims that traffic in Hay Lane would be reduced are misleading.
- n) The land has not been in MOD ownership.
- o) The proposal is not comparable to the development allowed on appeal to the rear of Elbar premises.
- p) 24 hour working has previously been rejected. The Elbar appeal decision carries conditions precluding HGV movements at unsociable hours.
- q) A precedent would be set for further industrial development in the countryside.
- r) The risk of fire would be unacceptable.
- s) There is insufficient detail about the nature of the use to properly assess impact.
- t) The flood risk assessment does not address the drainage implications of large new hardstanding areas. The area already suffers from flooding.
- u) Adjacent land could be contaminated.
- v) There could be harm to livestock.
- w) Nearby equestrian businesses would be adversely affected by noise.
- x) Development should take place on brownfield sites and not this greenfield land.
- y) There would be increased and unjustified environmental pollution.

Development Plan Policies

The relevant policies are:

South Derbyshire Local Plan Environment Policy 1, Employment Policy 1 and Transport Policy 6

East Midlands Regional Plan Policy 3 and Policy 35

National Guidance

PPS1, PPG4, PPS7, PPG13 & PPG24

Planning Considerations

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

- The principle.
- Impact on the character of the countryside.
- Residential amenity.
- Highway safety.
- Flood Risk.
- Archaeology.

Planning Assessment

The principle

The proposed storage building is of similar scale and character to the development allowed on appeal, albeit that the decision was based on a proposal related to another existing business, with its own specific context. However the application proposal affects a much larger area of open land and, in particular, would feature open storage to a height of 4.5 metres. Local Plan Saved Employment Policy 1 provides for the expansion of industrial or business uses adjacent to their existing premises provided that the proposal is not detrimental to the character of the locality or residential amenity and does not cause environmental or traffic problems. PPS1 and PPS7 stress the need to protect and enhance the quality, character and amenity value of the countryside. PPS7 seeks to steer new business development in rural areas to the re-use or re-development of existing buildings. This is an important contextual consideration when assessing whether or not a development would be compliant with Employment Policy 1. For the reasons set out below, in terms of impact on the countryside and residential amenity the development would not achieve all the qualitative requirements of the policy. Furthermore there is land available in the local area where the business could be accommodated, including Dove Valley Park and Hilton Business Park. There is also land amounting to about 4 ha on the opposite side of Woodyard Lane with permission for B8 development, which could potentially be utilised for expansion of the firm. Acceptance of this major expansion could make it difficult to resist similar applications for the expansion of businesses that involve significant outward encroachment into open countryside.

Impact on the Character of the Countryside

The development would involve a profound change to the open character of the countryside west of the established ATL site. Whilst the application proposes extensive screen landscaping, this would be achieved by substantial earthworks, in the form of a 2.5 metre high bund topped with 1.5 metre high fence, itself an alien feature in the settled farmland landscape of the area. Even with extensive landscaping the presence of substantial quantities of outside storage and associated lighting would have a harmful impact, particularly in the winter months, when foliage becomes sparse or non-existent. This fundamental failure to protect and enhance the quality, character and amenity value of the countryside, as advocated by PPS7, weighs against the benefit to the applicant of expanding in the westerly direction.

Residential Amenity

The existing premises can be operated continuously. The outline permission granted on appeal (9/2005/0191) was subject to restrictions on the number of lorry movements and the times they could take place. By bringing a 24-hour operation into closer proximity with existing residential properties the proposal would, on the advice of the Pollution Control Manager, result in unreasonable interference with the amenities of occupiers. This would be against the guidance in PPG24. This issue further weighs against the economic benefits described by the applicant.

Highway Safety and Transportation

On the advice of the relevant highway authorities the application does not offend highway safety or sustainable transport interests. By precluding implementation of the outline permission for the Elbar site the vehicle movements associated with that permission along Hay Lane would not occur as a direct consequence thereof. Nevertheless the current proposal remains to be considered on its own merits, as it cannot offer any ultimate guarantee about vehicle movements relating to another site.

Flood Risk

The submitted Flood Risk Assessment does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

Archaeology

The development would not threaten archaeological interests.

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

Recommendation

REFUSE permission for the following reasons:

1. Local Plan Saved Employment Policy 1 provides for the expansion of industrial or business uses adjacent to their existing premises provided that the proposal is not detrimental to the character of the locality or residential amenity and does not cause environmental or traffic problems. The proposed open storage areas and the associated lighting scheme, along with the artificial landscape feature that would be formed by the proposed screen embankment and fence would be visually obtrusive, failing to protect and enhance the quality, character and amenity value of the countryside. Furthermore the development is not one that is unavoidable in the countryside location proposed. As such the proposal is not compliant with either the aforementioned policy or Local Plan Saved Environment Policy 1.
2. The introduction of a large-scale 24-hour storage and distribution operation would result in undue noise and disturbance to the occupiers of nearby dwellings, to the material detriment of their living conditions, contrary to the provisions of Local Plan Saved Employment Policy 1.
3. The Flood Risk Assessment submitted with the application does not comply with the requirements set out in Annex E, paragraph E3 of PPS25 and does not, therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. As such the proposal does not demonstrate compliance with the requirements of Policy 25 of the East Midlands Regional Plan.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result
E/2006/0319	Egginton	Etwall	Dismissed



Appeal Decision

Inquiry held on 11 and 12 March 2009

Site visit made on 12 March 2009

by **Steven Fox BA MA MRTPI**

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

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

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

Decision date:
27 March 2009

Appeal Ref: APP/F1040/C/08/2082329

Land at Blue Post, Highbridge Lane, Egginton, Derbyshire DE65 6HA

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs M Rook against an enforcement notice issued by South Derbyshire District Council.
- The Council's reference is E/2006/00319.
- The notice was issued on 4 July 2008.
- The breach of planning control as alleged in the notice is conversion of a redundant agricultural building into an amenity block with a single storey extension, engineering operations to raise the levels of the agricultural land and a material change of use of the land to domestic residential use associated with Blue Post Caravan Site.
- The requirements of the notice are:
 - i) Permanently cease the use of the building shown edged green on the plan and associated land for domestic residential use associated with Blue Post Caravan Site
 - ii) Return the building back to its former state as a redundant agricultural building by undertaking the following works a) remove the tiled roof and replaced with a corrugated metal sheet roof, b) permanently remove the single storey side extension, c) permanently remove the rendering and the external lighting from the building, d) permanently remove all external doors and windows, e) permanently remove all the internal domestic features including the fitted kitchen and sanitary ware, f) permanently remove the septic tank.
 - iii) Remove the hardcore from the land and replace with clean topsoil and seed to grass
 - iv) Erect a post and rail fence, not exceeding 2m in height, as indicated on the plan as a broken line between points A to B, to mark the boundary with the site known as Blue Post Caravan Site.
- The periods for compliance with the requirements are one month for requirement i), three months for ii) and six months for iii) and iv).
- The appeal was made on the grounds set out in Section 174(2)(a) (c) (d) (f) and (g) of the Town and Country Planning Act 1990 as amended. The ground (c) appeal was withdrawn by the appellant, consequently the appeal proceeds on the other grounds.

Decision

1. I direct that the enforcement notice be corrected and varied as follows:

a) by deleting from Part (1) of the notice the words '4 years' and substituting '10 years'

b) by deleting from Schedule 2 the words 'engineering operations to raise the levels of the agricultural land'

- c) by deleting from the third paragraph of the Statement of Reasons the word 'within' and substituting 'close to'*
- d) by deleting from paragraph 2a) of Schedule 3 the words 'corrugated metal sheet roof' and substituting 'corrugated fibre cement roof'*
- e) by deleting the wording of paragraph 3) from Schedule 3 and substituting 'Within six months of the date of this notice taking effect remove the hardsurfacing materials from the land (with the exception of the concrete bases in the locations marked 'X' on Plan SF1) and reseed the land with grass'*
- f) by substituting Plan SF1 for the plan attached to the notice*
- g) by extending the period for compliance with step 1) of Schedule 3 from one month to six months*
- h) by extending the period for compliance with step 2) of Schedule 3 from three months to six months*

2. Subject to these corrections and variations I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act as amended.

Matters Relating to the Notice

- 3. At the inquiry I pointed out that whilst the allegation describes a material change of use Part (1) refers to the breach having taken place within 4 years before the issue of the notice. The Council accepted that I could use my powers to make the necessary correction to a 10 year period and the appellant agreed that this would not cause injustice. Also, the statement of reasons refers to the site lying within the Trent and Mersey Canal Conservation Area. This is not so; the wording should be corrected to state that the site lies close to the conservation area. As both parties clearly understood that this was the case no injustice would be caused.
- 4. The Council also suggested a change to the wording of step 2a) by replacing the words 'corrugated metal sheet roof' with 'corrugated fibre cement roof'. In my view this achieves the necessary precision and I shall alter the notice accordingly. I shall, of course, consider the appellant's ground (f) appeal in relation to this amended step. The Council also accepted that the works carried out had not materially changed site levels. Consequently reference in the description of the breach to raising levels is incorrect and I shall correct the allegation. Because the matter was not in dispute no injustice will be caused.

The Ground (d) Appeal

- 5. The ground (d) appeal relates to two small areas of concrete hardstanding that, it was said, existed prior to the breach occurring and formed part of the bases of the original agricultural buildings and structures that stood on the land. The areas concerned were identified on a plan and pointed out to me during the site visit. It was evident to me that these particular hardstanding areas are of considerable age and the submitted photographs indicate that in all probability

they were part of the bases of former agricultural buildings that had been on the land for many years prior to the clearance of the site by the appellant to facilitate the unauthorised change of use. In these circumstances I consider the particular areas identified to be immune from enforcement action. Consequently there is a limited ground (d) success and this is best reflected by varying Step 3 of Schedule 3 and excluding the concrete bases concerned from the requirement to remove the hardcore from the land.

The Ground (a) Appeal

6. The recently approved East Midlands Regional Spatial Strategy (RSS8) is relevant in that its Regional Core Objectives (Policy 1) seek to protect and enhance the environment and reduce the impact of climate change, including risk from flooding. Policy 2 requires that account be taken of local natural and historic character, and Policy 36 sets out the regional approach to managing flood risk. Relevant saved policies of the South Derbyshire District Plan include those concerned with conservation areas (environment policy 12), listed buildings (environment policy 13) and, because of the appellant's undisputed gypsy status, housing policy 15 which relates to gypsy caravan sites. Policy 12(A) says that development which would have an adverse effect on the character or appearance of a conservation area will not be permitted and 13(C) requires regards to be paid to the need to preserve the setting of listed buildings when considering development proposals, particularly on adjoining land. Policy 15 lays down criteria to be met in respect of gypsy caravan sites. Also relevant is current central government advice concerning planning and the historic environment (PPG15) and development and flood risk (PPS25). As far as gypsy issues are concerned circular 01/2006 advises on planning for gypsy and traveller caravan sites and the 2008 good practice guide relates to designing such sites.
7. With the above policy framework in mind and from what I have seen, read and heard I consider the main issues to be:
 - (i) the effect of the development on the character and appearance of the conservation area and the setting of nearby listed buildings (High Bridge and High Bridge House)
 - (ii) the flood risk implications
 - (iii) the benefits of the development for the occupiers of the adjoining residential caravan site
8. The appeal site lies in open countryside to the north-east of Burton upon Trent. With the exception of the building referred to in the notice the site has been cleared of its former agricultural buildings and structures and surfaced with gravel and planings. The two-storey building has a fitted kitchen, sitting area and toilet/shower room on the ground floor with a single room space above, from which patio doors open onto a balcony formed by the roof of a small single storey extension on the south-east side. There is no physical boundary between the appeal site and the land to the north-west and south-west which has planning permission for and is used as a residential caravan site, also owned and occupied by the appellant. Beyond this caravan site is the Trent and Mersey Canal, which is crossed by High Bridge, alongside which is the former lengthman's house, High Bridge House. The site is enclosed by brick

- walls on three sides, with a gated access at its southern corner off a narrow roadway that runs over the bridge to join the A38.
9. The conservation area is generally tightly drawn along the canal corridor, widening in places to take in related buildings and structures such as High Bridge and High Bridge House. By virtue of its historic interest as part of the early waterways system the conservation area's character is determined by the channel of the canal, the towpaths, hedges, embankments and cuttings alongside it and, not least, by its bridges and buildings. The linear nature of the conservation area means that views from the towpath and the water not only take in the canal itself but also the adjoining countryside which is very much a part of its rural setting. This is particularly so where the canal and towpath stand higher than the adjoining land, as is the case with the section to the north of the appeal site. From the towpath looking south-westwards the relationship of the canal and lower lying open countryside on its east side is especially important in framing the setting for the conservation area.
 10. The building on the appeal site has been altered to the extent that it bears no resemblance to a farm building. The insertion of domestic PVC windows and doors and the application of a pale coloured render to the walls (although not yet completed) together with a tiled roof and adjuncts such as wall lights and a balcony combine to give the building a domestic appearance. This reflects its use as an amenity building/dayroom in connection with the residential caravan site. Further, the significant expanse of hard surfacing on which cars are parked and a table and chairs situated emphasises the change in the character of the site from one that was formerly occupied by agricultural buildings, albeit disused and in a dilapidated condition. It has now taken on a harsh urban appearance.
 11. The site figures in views within, into and out of the conservation area. From the towpath immediately north-west of the caravan site the appeal site is visible through the boundary hedge and whilst this hedge and the caravans filter views to some extent the hard surfaced site and isolated building are incongruous when seen from the canal looking towards the countryside. From High Bridge itself the jarring incongruity of the site in relation to its rural location is more evident. Also, when seen from the lane to the south-east and looking back across the site towards the canal the building strikes a discordant note. The canal embankment and boats both moored and moving can be seen from this lane and in this view the rural context of this section of the canal is compromised by the scale and domestic appearance of the appeal building.
 12. By far the greatest visual impact on the conservation area is in longer views from the north-east. A defining characteristic of the conservation area derives from the vistas along sections of the waterway, especially those including important structures such as High Bridge and High Bridge House. The viewer does not simply experience the narrow canal corridor but also takes in its surroundings. I noted that by virtue of the stark urban appearance of the appeal building and hard surfacing the site imposes itself on the important and impressive view along the canal towards the listed buildings in an unacceptable, highly discordant manner. These views are particularly important because not only is the rural character of the land to the east an integral part of the setting of the conservation area but the listed buildings are seen together to form a key feature of this part of the conservation area.

13. I appreciate from the submitted photographs that the former buildings on the site were dilapidated and unused, but they comprised a group of agricultural buildings and as such were not out of place in the countryside generally or in relation to the setting of the conservation area. For the reasons given above I conclude that because of its adverse effect on views within and into and out of the conservation area the unauthorised development materially harms the character and appearance of the conservation area and thereby conflicts with local plan environment policy 12 and advice in PPG 15, paragraph 4.14 concerning the desirability of protecting the setting of conservation areas.
14. As far as the effect of the development on the setting of the listed buildings is concerned I consider that, as explained above, this is most evident in views along the canal from the north-east. The low humped bridge is a typical canal structure and High Bridge House is particularly impressive because of its scale, architectural detailing and siting immediately alongside the canal. Because of their proximity there is a dramatic relationship between the canal, the house and the bridge. In views along the canal from the north-east the two listed buildings are seen in conjunction and dominate this part of the conservation area. Because of the open nature of the adjoining countryside to the east when looking towards the listed buildings the appeal site is an important part of their setting. I found that its alien urban appearance draws the eye away from the listed buildings to the extent that it seriously detracts from their setting. Therefore there is conflict with local plan environment policy 13 and the advice in PPG 15 referred to above.
15. There is no dispute between the parties that the site is subject to flooding; this is evident from the submitted photographs. It is within the flood plains of the River Dove and Egginton Brook. No Flood Risk Assessment (FRA) has been submitted for this development but one was prepared by the appellant in connection with a 2007 planning application for the extension of the caravan site. This indicates a 1 in 100 year flood depth of between 0.7 and 1.4m. The Environment Agency generally accepts this FRA apart from its failure to identify the site as falling within the functional flood plain of the River Dove, bringing it within flood zone 3b rather than 3a. This was not disputed by the appellant at the inquiry.
16. As far as flood risk vulnerability is concerned in my view the appeal development falls within the less vulnerable category of table D2 to Annex D of PPS25. It comprises land and buildings used as part of a residential caravan site and as such occupiers and visitors are likely to be present on the premises and therefore there is a potential risk to people and property. Applying table D3, less vulnerable development should not be permitted in zone 3b.
17. However, there are specific circumstances relating to this site that should be taken into account. The Environment Agency representative accepted that the development involved the removal of other buildings and structures and although a small extension had been added there was, in totality, no decrease in flood storage or detrimental effect on flood levels. Possible contamination from the effects of flooding on the septic tank would be minimal bearing in mind the polluted nature of flood water generally. Also, whilst a wall close to the water course on the north side of the site could impede the movement of flood water this could be resolved if the wall were replaced by post and rail fence, in effect resulting in a net gain in terms of displacement and flows.

18. There were concerns that acceptance of this development would set a precedent and thereby have a cumulative effect on flood risk. In my opinion these concerns are ill-founded because the prospect of other similar developments coming along within the flood plain is remote. It seems to me that the flood risk implications arising from the appeal development are minimal in terms of the effect on the capacity of the flood plain to store water and on the flow of flood water. Indeed, if planning conditions were imposed requiring the implementation of a scheme for warning occupiers of the caravan site of possible flooding and requiring changes to the northern boundary any concerns regarding safety and flooding could be resolved. Consequently I see no reason for rejecting this development on the basis of its effect on flood risk.
19. The appellant's intention is to use the appeal site and building in connection with the occupation of the permitted caravan site. In particular, it is argued that the existing amenity block is inadequate for the needs of occupiers of the site and that the appeal building will provide facilities in line with the advice in the 2008 Good Practice Guide for Designing Gypsy and Traveller Sites. I saw that the existing amenity building, located alongside the site's north-western boundary, is of rendered blockwork and tiled pitched roof construction and contains a separate toilet and a utility room with toilet, wash basin and shower, domestic appliances and stored items.
20. The use of the appeal building would undoubtedly provide a better standard and range of facilities. However, the situation here is not on all fours with the design guide advice, which relates primarily to the development of new or the refurbishment of existing sites. Whilst the guidance says that there is a need for an amenity building for each pitch and sets out the facilities to be included this is in the context of a site that is undergoing development or redevelopment and where the amenity block can be incorporated into the overall layout. Paragraph 7.19 of the guidance recognises that many existing amenity blocks do not contain a day/living room and refers to the desirability of providing them on new sites. Also, in my extensive experience of gypsy sites I have never seen a two-storey amenity building. The illustrative plan in Annex B6 of the guidance shows a single storey building and I would have thought that a two-storey building would be far from satisfactory, particularly for the less mobile occupiers of a site.
21. The situation at the appeal site is that the appeal building stands away from the permitted caravan site, a small private site for three caravans only. Other means of achieving improved amenity facilities, for example extending the existing building on the permitted site or seeking planning permission for a less intrusively sited and more sympathetically designed building, do not appear to have been explored. Therefore I consider that whilst the facilities provided in the appeal building would be of some benefit to the occupiers of the adjoining site this does not outweigh the serious harm that I have identified in relation to the first issue.
22. I have considered all other matters raised. A number of conditions were suggested and discussed at the inquiry. Whilst it would be possible by condition to control activities taking place on the land (the staging of caravans, the parking of heavy goods vehicles and commercial/storage uses) as well as modifying certain elements of the building itself these measures would not overcome the fundamental objection to the development which arises from its

harmful effect on the character and appearance of the conservation area and on the setting of the listed buildings. Therefore the ground (a) appeal is unsuccessful.

23. The appellant claims interference with her human rights under Article 8 in that her living conditions would be affected if the notice were upheld. This development has been carried out in breach of planning control and does not affect the appellant's rights that relate to the authorised site which she occupies. It was made clear that there was no intention to live on the appeal site or use the appeal building as a separate dwelling. The appellant can continue to occupy the permitted site unaffected by my decision relating to the appeal site. In these circumstances there is no violation of her human rights.

The Ground (f) Appeal

24. The ground (f) appeal relates to steps 2),3) and 4) and is based on the argument that the requirements go beyond what is necessary to restore the land and building to their condition before the breach occurred.
25. As referred to above the Council have proposed an amendment to step 2a) which would substitute 'corrugated fibre cement roof' for 'corrugated metal sheet roof'. From the evidence, particularly the submitted photographs, I am satisfied that before its replacement with ridged interlocking red tiles the roof had asbestos fibre corrugated sheeting. It would be perverse to require an asbestos based cladding to be reinstated but I do not consider it unreasonable or excessive to specify a corrugated fibre cement roof covering. This would achieve, as closely as is reasonably possible, the reinstatement of the roof to its former state and appearance. The red roof tiles used are inappropriate for a former agricultural building in a rural location. Apart from the roof of the amenity building at the caravan site they do not match any roof in the vicinity and contribute to the unacceptable appearance of the building as a whole.
26. The side extension was erected as part of the works to facilitate the unauthorised use of the building and its retention would be at odds with the former character and appearance of a simple agricultural building. Similarly the application of render and fitting of external lights are works that both individually and cumulatively contribute to the creation of a building with an inappropriate urban and domestic appearance such that material harm is caused, as set out in the ground (a) appeal. Again, it is not excessive or unreasonable to require these works to be removed.
27. The appellant says that step 2d) goes beyond what is necessary to remedy the breach because the building previously had a door and windows, albeit in a poor state. In terms of the effect on the appearance of the building and therefore its impact on its surroundings the PVC doors and windows are significant by virtue of their inappropriateness. Photographs taken prior to the alterations that have been carried out show the building without windows and doors fitted to its openings. Consequently whilst it is not unreasonable to require the removal of the doors and windows because they were inserted in connection with the breach of planning control it would be excessive to require the insertion of replacement doors and windows when none were present previously.

28. I was told that prior to its unauthorised change of use the building had a toilet and sink. There is no evidence of substance that this was the case but in any event there is nothing to suggest that the installation of a fitted kitchen and other domestic fixtures took place other than to facilitate the unauthorised use of the building. The same applies to the septic tank. It follows that steps 2e) and f) are reasonable and necessary.
29. There was some disagreement as to the state of the site prior to the importation of surfacing materials. The photographs submitted indicate that grass was present on parts of the land and two show sheep grazing on it. There is evidence of former building bases and these are the subject of the ground (d) appeal. Whilst it is clear that surfacing materials have been brought onto the site there is nothing before me to suggest that topsoil was stripped off and should therefore be replaced. In all probability the site surface was merely scraped level before the material was placed on it. It is therefore not unreasonable to require the removal of the surfacing materials from the land and that, based on photographic evidence, it be reseeded. But it would be unreasonable to require the importation of topsoil when there is no evidence of substance to indicate that topsoil has been removed in connection with the breach of planning control. I shall amend step 3 accordingly.
30. At the inquiry and I expressed my reservations about the appropriateness of step 4 but was told that previously there was a breeze block wall between the permitted caravan site and the appeal site. This is shown on some of the submitted photographs. The appellant says that Council officers gave verbal agreement to its removal. Nonetheless, it seems to me that the wall was removed to facilitate the unauthorised extension of the caravan site use and therefore this comprised works that were part and parcel of the unauthorised change of use. The requirement to reinstate a physical boundary between the authorised and unauthorised sites is not excessive in these circumstances. The Council chose to require the erection of a post and rail fence and to my mind this is not unreasonable.
31. My conclusion on ground (f) is that with the exception of changes to step 3 the appeal is unsuccessful.

The Ground (g) Appeal

32. The Council accepted that the period for compliance be extended to six months for all steps, as requested by the appellant. I consider this extended period to be a reasonable time to carry out the notice's requirements. The ground (g) appeal succeeds and I shall vary the notice accordingly.

Steven Fox

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr M Green	Partner, Green Planning Solutions
He gave evidence and called	
Mrs M Rook	The Appellant
Mrs R Reed BA DipArch MA RIBA	Partner, Green Planning Solutions

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Wakefield	Solicitor, of Messrs Morons
He called	
Mrs G Richards	Senior Enforcement Officer
Mrs M Hallard DipTP Dip Arch Cons IHBC	Design and Conservation Officer
Mr J Beckett	Development Control Technician, Environment Agency
Mr T Dening DipURP MRTPI	Area Planning Officer

INTERESTED PERSONS:

Mr J Huber	High Bridge House, Egginton DE65 6HA
Mrs L Brown	Chair, Egginton Parish Council

DOCUMENTS

- 1 Lists of those present at the Inquiry
- 2 Note of site meeting on 23 April 2008, submitted by the Council
- 3 Adopted East Midlands Regional Plan
- 4 Photographs submitted by Mr Huber
- 5 Plan of concrete hardstandings submitted by the Appellant



Plan SF1

This is the plan referred to in my decision
dated: 27 March 2009

by Steven Fox BA MA MRTPI

Land at: Blue Post, Highbridge Lane,
Egginton

Reference: APP/F1040/C/08/2082329

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