

DEVELOPMENT CONTROL COMMITTEE – 3 August 2004

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).

REPORT OF THE PLANNING SERVICES MANAGER

1. Planning Applications

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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 Planning Services Manager's 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 Planning Services Manager, 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.

03/08/2004

Item 1.1**Reg. No.** 92004 0105M**Applicant:**

Prime Holdings Limited
 4 St George's House
 Vernon Gate
 Derby
 DE1 1WQ

Agent:

Ian Robertson Chartered Architect
 P O Box 190
 Falmouth
 Cornwall
 TR11 2XX

Proposal: **The erection of five office blocks incorporating ten residential apartments at Land At Swarkestone Road Swarkestone Derby**

Ward: Aston

Valid Date: 10/02/2004

Site Description

The site lies at the fringe of the Derby urban area, bounded to the south by the A50 dual carriageway and to the east and north by the road serving recent large-scale development at Chellaston. Part of the site lies within the city's administrative boundary. This edge of the city is at a higher level than the Trent Valley and can therefore be seen from some distance, including Swarkestone Causeway and Lowes and parts of the Trent and Mersey Canal. The land has been filled, being the site of the disused Derby and Ashby branch line.

Proposal

The applicant proposes five blocks of 3 - 5 storey buildings of modern design. The top floors would accommodate a total of ten apartments. The remainder of the floor space would be used for offices, with some basement car parking areas also provided.

Applicants' supporting information

- a) The site is designed as an integrated campus, with blocks set in an overall paved and landscaped setting, without the need for a specifically designed service road. This would enhance the general amenity. Pedestrian priority could be identified by contrasting colour paving.
- b) Parking is provided in accordance with the recommendations of the City and County Councils. Cycle parking is included.
- c) The development is unlikely to have any significant impact on the local highway network.
- d) A management committee would be set up to administer the site, with responsibility for maintenance and services. It would also be responsible for the formulation and monitoring of a travel plan, liaising with the City Council's Travel Plan Co-ordinator.

- e) Perimeter security fencing would be visually softened with a thorn hedge.
- f) A mobility unit can be provide as necessary.
- g) The applicant is agreeable in principle to the payment of an appropriate sum for education provision and for public transport and cycling.

Planning History

Permission was granted for development of the site for roadside services in 1996 (9/0896/0370/O), this being a renewal of an earlier permission. This was not implemented, following the grant of permission on appeal for the comprehensive roadside facility at Shardlow and its subsequent construction.

Responses to Consultations

The Highway Authority has no objection in principle.

The County Archaeologist confirms that no known interest would be threatened.

Following the submission of an air quality management report, the Environmental Health Officer has no objection.

The Education Authority considers that there would be a generated need for two additional pupils at Sale and Davey School Barrow on Trent and seeks a contribution of £13344, based on the current DfES building multiplier.

Derby City Council has indicated its acceptance in principle to the scheme. With regard to health care contribution the City Council has affirmed that it would not require such provision in this instance.

Responses to Publicity

A letter has been received from a Melbourne resident objecting as follows:

- a) The development would be completely out of character with the flat landscape of the Trent Valley, including the historic Swarkestone Causeway and village.
- b) The high buildings would be out of character with surrounding properties.
- c) There would be considerable traffic generation, to the detriment of safety.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 1&3, Economy Policy 2, Transport Policies 1 & 10 Housing Policy 4 and Environment Policy 17.

Local Plan: Employment Policy 5

Emerging Local Plan: Policies ENV14 & 21, T1, T4, T5 & T9, H1, EMP2

Planning Considerations

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

- The principle, including sustainability.
- Visual impact.
- Highway safety, travel and parking.
- Air quality.
- Education provision.

Planning Assessment

The relevant structure plan policies would favour this edge of urban area development. The strong physical boundaries formed by the roads provide a definite edge to the development area, preventing any encroachment into open countryside. There are no local plan policies that specifically weigh against this urban fringe proposal, although there are general policies restricting development away from settlements. Because of the physical characteristics of this particular site these policies would not be prejudiced. Being well related to the city services the site is considered to be sustainable in terms of transport issues. The site has been developed in the past by virtue of the existence of the railway and currently has a metalled surface over a significant proportion of its area and can be regarded as brownfield in the terms of PPG3. In any event the predominance of this mixed-use development is for business purposes. The inclusion of residential apartments is in accord with the objectives of the guidance, particularly as the presence of the apartments could encourage living and working at the site.

The development would act as visual 'gateway' to the city. Subject to good quality detail design the development would be an impressive feature at what is otherwise a fairly bland urban fringe. The Design and Conservation Officer is of the opinion the development would not be harmful to the historic setting of Swarkestone and the Trent and Mersey Canal.

On the advice of the Highway Authority the development would be acceptable in safety terms. The layout provides facilities for people who choose to travel by means other than the private car, and there is public transport running adjacent to the site.

The air quality survey demonstrates that the living conditions of the occupiers of the apartments would be acceptable in this regard.

The education needs generated by the development would be satisfied by an appropriate legal agreement to provide the relevant funding.

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 applicant entering into an agreement under Section 106 of the Town and Country Planning Act 1990 to secure appropriate contribution towards education provision at Sale and Davy's School and subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. Unless as otherwise may be agreed in writing with Local Planning Authority, before development begins a schedule and, where necessary, samples of all external materials for the buildings and external hard surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with approved schedule.

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

3. Unless as may otherwise be agreed in writing with the Local Planning Authority large scale drawings, to a scale of not less than 1:20 of the following shall be submitted to and approved in writing by the Local Planning Authority: external joinery and glazing; eaves and verges; and rainwater goods and external services. The development shall be implemented in accordance with the approved drawings.

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

4. Unless as may otherwise be agreed in writing with the Local Planning Authority details and specifications of external decoration, including any paint finishes, shall be submitted to and approved in writing by the Local Planning Authority before development begins. The development shall be implemented in accordance with the approved details and specifications.

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

5. Notwithstanding any details submitted, 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.

6. 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.

7. 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.

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

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

03/08/2004

Item 1.2**Reg. No.** 92004 0370M**Applicant:**

St Modwen Developments Ltd
 Lyndon House
 58/62 Hagley Road
 Edgbaston
 Birmingham
 B168PE

Agent:

Barton Willmore
 Barton Willmore Planning Partnership
 Beansheaf Farmhouse
 Bourne Close
 Calcot
 Reading
 RG317BW

Proposal: **Outline application (all matters except means of access to be reserved) for a school at LCH2 And Area H22 Land North Of Welland Road Former Hilton Depot Hilton**

Ward: Hilton

Valid Date: 29/03/2004

Site Description

The land to be potentially used as a school site lies immediately to the south of the parish council playing fields. There is fence along the common boundary but the remaining boundaries are open having been cleared of former army storage buildings. The land is substantially level and there are no dwellings in the vicinity.

Proposal

This is an outline application seeking permission for the principle of locating another school on the Hilton Depot site to serve the enlarged community. Access would be from a newly constructed spur from Welland Road running past the proposed school site. It is proposed that the route of Meadow Lane be reopened as a pedestrian route from the village to the new school site.

Applicants' supporting information

The new development has placed the existing school under increasing pressure and has led the Education Authority to identify the need for a single form entry (210) place primary school requiring a new site of 0.75 hectares.

Discussions with officers have identified that the site should be accessible to both the existing village and the new development. The new site adjoins the existing playing fields and it is suggested that the school could be allowed joint use of the playing fields during the day.

The site was originally allocated to provide Low Cost Housing and the removal of the land to provide a school would take some 35 – 40 dwellings from the overall site development.

Planning History

The allocation of the depot to provide a mixed-use site was first suggested in 1989 following Toyota's decision to locate at Burnaston and was subsequently included as a major proposal in the Local Plan. It was anticipated that the expansion of the existing primary school would be sufficient to serve the expanded village. Experience has shown that the number of dwellings on the depot has increased as a result of Government advice and the number of children per household has proved greater than anticipated.

LCH 2 was land identified in the Master Plan for low cost housing and the land was to be offered to the Council at half its market value. A subsequent survey of the need for low cost housing in Hilton revealed that the LCH 1 site would meet the need of the village and surrounding parishes for the foreseeable future.

The Council, in its review of the Local Plan identified the need for additional housing in the Derby sub area and proposed that two areas of employment land at the Depot site be reallocated for housing development. This together with the factors identified above lead to the need for the allocation of a further school site.

Negotiation with the developers has identified the application site and its transfer at nil cost to the County Council would follow the reallocation to housing of the employment land if that proposal is accepted by the Local Plan Inspector. The Inspector's report on the objections to the Local Plan is expected in September.

Responses to Consultations

Hilton Parish Council is concerned that:

- the proposed site for the school would not be suitable,
- it may not have the capacity to meet future needs,
- it may lead to additional congestion on Peacroft and Back Lane and
- using Meadow lane as a pedestrian access would be unsafe especially as its northern end serves several houses.

The Parish Council also has legal and safety concerns about the proposed school utilising the Parish Council's playing area.

The County Planning Authority has no objection to the principle of the development but the Local County Councillor Mr Littlejohn has expressed similar concerns to those raised by the Parish Council.

The County Highway Authority has no objection subject to the submission of a school travel plan with the detailed planning application.

The police liaison officer has no objection to the principle of the development but would wish to see the details when they are submitted.

The Environment Agency has no objection subject to a condition requiring the submission of surface water retention details within the site.

Responses to Publicity

7 letters in a standard format have been received objecting to the development on the ground that, whilst the school is needed, the access from Back Lane could cause congestion that would be a nuisance to existing residents as parents park on the road to drop their children off for school.

Two other letters raise objections following a public meeting in the village to discuss this proposal (this meeting was attended by officers of the LEA and the Planning Services Manager):

- even were access to Meadow Lane to be denied to cars, traffic congestion and danger, adding to the existing problem with congestion in Peacroft Lane, would arise at the corner of Back and Mill Lanes where there is a blind bend
- local residents have not been consulted about what is best for their area and children
- the proposals are presented as a concluded arrangement based solely on convenience and cheapness for the Local Authorities
- no consideration appears to have been given to other sites and residents are made to feel that any changes they may require would cause delay to the provision of much needed facilities. Other sites should have been considered at the outset when proper playing field provision could have been made.
- similarly the Parish Council is being pressurised to allow joint use of the playing field
- a second school further off and more distinctly related to the new development would help to avoid confusion about catchment areas and rivalry for school places and avoid congestion along Back Lane.
- The road surface is in poor condition more traffic would accelerate the rate of deterioration.

Structure/Local Plan Policies

The relevant policies are:

Local Plan Housing Policy 1 and Community Facilities Policy 1

Emerging Local Plan: Housing Policy 6 and Community Facilities Policies 2 and 4

Planning Considerations

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

- The suitability of the use of the site as a school
- The impact on the surrounding land uses
- Access to the site and traffic congestion arising
- The need for a Section 106 Agreement.

Planning Assessment

The site lies in the area designated for residential development in the adopted Local Plan. The emerging Local Plan identifies the need for additional education provision within the site. The proposed location is well related to both the existing village and the current and next phases of the housing development on the depot site.

The opportunity to provide another link between the depot and the village that was lost when the depot was developed is welcomed. It will be necessary to limit its use to pedestrians and cycles as the lane's junction with Back Lane is unsuited to taking more than the existing anticipated level of traffic (Development of and conversion of buildings to 7 dwellings).

The impact on the surrounding land uses in the immediate vicinity of the application site and in particular, the school building would be minimal. None of the houses with permission on the depot site immediately adjoining the site has been built. The school would be located precisely where the bulk of the as yet undeveloped new housing is to be located. Nevertheless access from the original part of the village would not be excluded. The land to the north would remain in open use, as this area is the Parish Council's playing field. Pedestrians already use Meadow Lane to gain access to the playing fields and as most of the children that would attend the school would come from the new development, it is not expected that significant traffic would be generated from the Back Lane area of the village. Any problems that arise in this connection are matters for resolution by the County Council using highway powers to manage traffic. However, the route would re-establish what was an historic link to the village enabling better integration of the old and the new.

The vehicular access to the site would come through the new housing development area. Welland Road is designed as a bus route and would be capable of accepting the traffic generated by the new school. The County Highway Authority has no objection to the development and the requirement for a school travel plan can be required through the use of a condition.

The ultimate recipient of the land would be the County Education Authority. Agreement has been negotiated relating to the re allocation of E1 & E2 for housing development. This awaits the publication of the Inspector's report to be taken further. Accordingly, it is not considered necessary at this stage to require a Section 106 Agreement for this application.

In the event that the Parish Council will not agree joint use of the playing fields, an amendment/alternative to the current proposal will need to be negotiated but this should not stand in the way of the proposal as it stands in planning terms.

Issues of school catchments and how the schools should be constituted in relation to one another are for the LEA to deal with.

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 either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

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

2. Approval of the details of the siting, design and external appearance of the building(s) the means of access thereto and the landscaping and means of enclosure of the site 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. Notwithstanding the originally submitted plan this permission shall relate to the amended drawing 6675/24 received under cover of your letter dated 25 May 2004.

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

4. In addition to the details required above, a School Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be implemented upon the opening of the school and thereafter annual monitoring reports shall be submitted to the Local Planning Authority.

In order to reduce the need to travel by car and in order to monitor the effectiveness of the approved travel plan.

5. The development shall not be commenced until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve amenity.

6. No development permitted shall be commenced until details for the provision and implementation of surface water run-off limitation have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of the buildings. The submitted scheme shall incorporate sustainable drainage principles.

To prevent the increased risk of flooding.

03/08/2004

Item 1.3**Reg. No.** 92004 0553M**Applicant:**

St Modwen Developments Ltd
 Lyndon House
 58/62 Hagley Road
 Edgbaston
 Birmingham
 B168PE

Agent:

Barton Willmore
 Barton Willmore Planning Partnership
 Beansheaf Farmhouse
 Bourne Close
 Calcot
 Reading
 RG317BW

Proposal: **Outline application (all matters to be reserved except for means of access) for a residential development at Area H22 on LCH2 And Area H22 Land North Of Welland Road Former Hilton Depot Hilton**

Ward: Hilton

Valid Date: 30/04/2004

Site Description

The site occupies part of an open area to the north of the Hilton Depot. It was excluded from the development of the depot and would be classified as a green field site for the purposes of PPG 3. It is separated from the depot site by a hedge. The land rises gently to the north towards another field beyond which are the new houses on Mill Close. To the south of the site the Depot land is allocated for housing development and buildings have recently been cleared from that part. To the west are open fields with the former route of the Hilton Brook running adjacent to the boundary. The site area is 1.23 hectares.

Proposal

This is an outline planning application to establish whether the principle of residential development is acceptable with all matters except access reserved for subsequent approval. Access to the site would be from a new road constructed off Welland Road that was granted permission earlier this year. This would form part of the wider road network serving the development.

Applicants' supporting information

It is proposed that this land replace that lost as a result of the reallocation of the LCH 2 land for school purposes (9/2004/0370/O). It is argued that the site lies within the settlement framework and that it would be in keeping with the provisions of Housing Policy 5 of the adopted Local Plan.

It is also argued that the development would be in accord with the provisions of Policy H1 of the replacement South Derbyshire Local Plan. The site is within the confines of a serviced village although the site is greenfield rather than the brownfield.

The proposal would be to encourage housing development at the lower end of the PPG 3 range of densities (30 dwellings per hectare) to reflect the relationship of the site to the lower densities and the scale and character of this part of the village. On this basis the site would yield between 35 & 45 dwellings.

The applicants state that the development of this land represents an obvious piece of rounding off within the settlement boundary and is well related to the existing pattern of development. The site location is argued to be highly sustainable as it is well related to central facilities and will make good the loss of houses on LCH 2. The applicants recognise the opportunity afforded by this application to establish a pedestrian link into the main village via Meadow Lane to Back Lane.

The traffic impact is not considered to be significant as the school traffic would be primarily generated from within the depot site and the new housing would result in similar traffic levels that would have been generated by the development of LCH 2 for housing.

The applicants conclude by stating that the development is in accord with the adopted Local Plan and that there are no material considerations that the application should be determined other than in favour of the applicant's given the requirements of Section 54 A of the Town and Country Planning Act 1990.

Planning History

The site has no planning history but lies adjacent to the Hilton Depot site.

Responses to Consultations

Hilton Parish Council has no objection to the development.

The County Planning Authority has no objection to the development.

The County Highway Authority recommends a Grampian condition requiring that no dwellings be occupied until two routes for vehicular traffic have been provided to a standard where they are usable by traffic generated by the development. (*The second access point could be ensured when the reserved matters application is submitted for the remaining land to the south. This would be either a shortening of the overall cul de sac length or by a direct access from Area H19*)

The Environmental Health Manager has no objection and does not anticipate that noise would be a problem in this area. He would wish to have a condition directing construction traffic along The Mease rather than using other Estate roads to access the site.

Responses to Publicity

Several letters of objection have been received all stating that the extension of the depot onto a green field site is unwarranted and unneeded. The current Local Plan is already placing a strain on the village infrastructure.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 1 & 5

Emerging Local Plan: Policy H1, H10, ENV 17, C3, C5

Planning Considerations

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

- The provisions of the Development Plan
- The need for infrastructure and facilities contributions
- The need for affordable homes
- The need for a section 106 Agreement

Planning Assessment

The site also lies within the settlement framework of the adopted Local Plan. The principle of the development is therefore in general accord with the provisions of the Local Plan. The site lies within the built confines of Hilton and this settlement has been identified as a serviced village in the emerging Local Plan. However, the site is greenfield being former agricultural land. Policy H1 of the emerging Local Plan only makes provision for the development of brownfield sites with in the confines of villages. Nevertheless, the site is wholly within the established confines of the village and the proposal would represent a logical conclusion to the development of this part of the village.

The site is of a size that would trigger contributions as required by the above-mentioned policies and discussions have been held with the developers to secure the provision of contributions towards school places, health authority requirements, open space maintenance and low cost housing. In this instance there is not an immediate requirement for housing to be provided by a RSL but low cost private sector housing is needed.

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

Subject to a Section 106 Agreement being signed to secure contributions towards affordable housing, school and health provision and the maintenance of open space,

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 either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

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

2. Approval of the details of the siting, design and external appearance of the building(s) the means of access thereto and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

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

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

4. 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.

5. Potential grampian style condition plus any further reasonable planning requirements of the County Highway Authority.

03/08/2004

Item 1.4**Reg. No.** 92004 0589F**Applicant:**

Mr S Ermolenko
70, Scropton Road
Hatton
Derby
DE65 5DT

Agent:

W. Royall
Reeves Royall Partnership Ltd
Knightley Farm, Callingwood,
Needwood,
Burton On Trent
Staffordshire
DE139PU

Proposal: The removal of existing commercial enterprise and replace with the erection of two dwellings to the rear at Land At The Rear Of 70 72 Scropton Road Hatton Derby

Ward: Hatton

Valid Date: 25/05/2004

This application has been brought to the Committee at the request of Councillor Whyman.

Site Description

The site comprises a level area of ground wherein there is a workshop on the north boundary associated with the applicant's business. Houses adjoin the east and south boundaries and there is open countryside to the west and north. The site is screened from adjacent dwellings by substantial walls. In places these are about 2.5 metres high and 2.0 metres in other locations. The houses fronting Scropton Road are two-storey, but the other dwellings are bungalows.

Proposal

The proposal involves the erection of two bungalows with rooms in their roofs. Access would be via the existing drive off Scropton Road. The workshops would be cleared for the site to facilitate the erection of the dwellings should they be permitted.

Applicants' supporting information

The site conforms to the definition of brownfield land and the scale of the dwellings is such that they could be described as 'low cost'. The site lies in a predominantly residential area and replacing the workshop with residential use would benefit all the neighbouring dwellings.

Planning History

The workshop use was permitted in the mid 1990's.

Responses to Consultations

The County Highway Authority has no objection subject to the maintenance of the sight line across the frontage of No 70 Scropton Road and the provision of appropriate parking and turning space within the site before the dwellings are occupied.

The Environment Agency has sent its informal views about the proposal. If the site was flooded in November 2000 then finished floor levels (ffl) should be set at 600mm above that level. If no then ffl should be 600mm above existing ground level. The current use of the site is described as a workshop and a desktop study to establish if the site is contaminated is recommended. If so, then further works would be necessary to establish a method for dealing with the contamination would need to be formulated and implemented.

Responses to Publicity

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

- a) There have been several accidents in the area of Scropton Road recently and this causes some concern, albeit that there are no objections to a single dwelling. Traffic calming measures have been requested on Scropton Road because of the increase in traffic especially at the morning and evening peak times.
- b) Both these properties flooded some 3 years ago. Floor levels would need to be raised above flood levels and this would make the houses more visible from other properties. Houses to the south might well be overlooked from ground floor windows and the pitched roof (accommodating a bedroom within it) would be overbearing. Windows should not be permitted looking towards these houses.
- c) The access is not capable of serving the five houses that would have access from it.
- d) There is an old clay sewer under the drive that had to be repaired on several occasions; Severn Trent Water should be requested to take responsibility for future repairs and maintenance.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5

Emerging Local Plan: Policy H1 and ENV 21.

Planning Considerations

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

- The Development Plan policies
- The ability of the site to accept the level of development proposed.
- The flooding issue

Planning Assessment

The site lies in the confines of the serviced village and the principle of housing development is acceptable. The access to the site is acceptable to the County Highway Authority subject to

conditions, the concerns expressed by objectors in this regard would be difficult to sustain at appeal if permission were refused.

The initial comments of the Environment Agency indicate that if the site did flood then the dwellings should be set 600mm above that flood level. There is a relatively new bungalow, immediately adjoining the application site at the rear of No 70 that is set 600mm above existing ground level. According to an objector, that property did not flood but it was a close call.

The Environment Agency has improved flood protection along the River Dove since that flood. Nevertheless, in their view, it would be prudent to require that the dwellings be set at a level that would protect them from a repeat of the November 2000 flood. Thus, in the worst case scenario the level of the house floor would be raised more than 600mm above existing ground level.

Thus, an increase of a further 150mm (750mm above existing ground level) is provisionally recommended on the basis that the adjacent bungalow did not flood in November 2001. The Environment Agency's comments on this suggestion will be reported at the meeting.

In relations to the concerns of the neighbour about overlooking, the proposed dwelling immediately to the rear of No 72 Scropton Road would indeed be at the higher level as described above. Two ground floor windows are proposed in the elevation facing that dwelling but no openings are proposed in the roof. If the 750 mm suggestion were acceptable to the Committee, then the height to the top of the ground floor windows would be 2.9 metres above existing ground level. This would mean that an average sized person would not have a view over the wall. In the event that a tall person was looking out of the window the angle of view would be such that there would be oblique views into habitable rooms and the window is some 20 metres from the back of the adjacent dwelling. The main aspect of this proposed dwelling is to the west over the fields. The other proposed window is to a bedroom and given the screen wall and the angle of view, this window conforms to adopted guidelines for the separation of dwellings.

The buildings are sufficiently far apart not to infringe guidelines on overbearing and thus the height of the roof could not reasonably form a reason for refusal.

The second dwelling is proposed adjacent to the north boundary. The adjacent bungalow is set in front of the proposed dwelling. The proposed dwelling has been designed with no habitable rooms facing the neighbour and the distance between the windows and flank walls is such the there should be no overbearing effect on windows of the adjacent bungalow even with the increased floor level.

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 five years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. The finished floor levels of the dwelling hereby permitted shall be set at 750mm above the existing ground level.

In the interests of ensuring the dwellings do not flood at times of normal rainfall.

3. No development approved by this planning permission shall be commenced until:
- a) A desk top study has been carried out which shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information. Using this information a diagrammatical representation (Conceptual Model) of the site for all potential contaminant sources, pathways and receptors shall be produced.
 - b) A site investigation has been designed for the site using the information obtained from the desk study and any diagrammatical representations (Conceptual Model). This should be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on the site. The investigation must enable a risk assessment to be undertaken relating to ground and surface waters both on and off the site which may be affected, and refinement of the Conceptual Model, and the development of a Method Statement detailing the remediation requirements.
 - c) The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment has been completed.
 - d) A Method Statement detailing remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the Site Investigation has been submitted to the Local Planning Authority. This should be approved in writing by the Local Planning Authority prior to that remediation being carried out on the site.

Prior to the commencement of main site works the approved remediation works shall be completed in accordance with the approved method statement to the satisfaction of the Local Planning Authority. Appropriate validation of the remedial scheme shall be submitted to the Local Planning Authority for written approval.

To ensure the site is suitable for its intended use, to protect the quality of the water environment.

4. The frontage of No 70 shall be maintained in perpetuity free of any obstruction exceeding 1m (600mm for vegetation) relative to road level for 2m into the site from the highway boundary.

Reason: In order to maximise visibility for drivers emerging from within the site onto the classified highway.

5. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of each dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

6. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.

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

7. Notwithstanding any details submitted, 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 on the east and north boundaries of the site. 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.

8. Reasonable additional planning requirements of the Environment Agency.

03/08/2004

Item 1.5**Reg. No.** 92004 0608FH**Applicant:**

Mr R Stone
 2 Oldfield Drive
 Swadlincote
 Derbyshire
 DE110BE

Agent:

Mr R Stone
 2 Oldfield Drive
 Swadlincote
 Derbyshire
 DE110BE

Proposal: The erection of an extension at 2 Oldfield Drive Swadlincote**Ward:** Swadlincote**Valid Date:** 14/05/2004

Councillor Stone is the Applicant.

Site Description

The site is a detached bungalow located on a corner plot within a residential area.

Proposal

The application proposes the construction of a side extension measuring 5 metres in length by 2 metres in width and 3.9 metres to the ridge.

Planning History

None.

Responses to Consultations

None received.

Responses to Publicity

None received.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan:

Local Plan: Housing Policy 13

Emerging Local Plan: Policy ENV 21

Planning Considerations

The main issues central to the determination of this application are the impact of the extension on the amenity of the occupiers of the adjoining dwellings and the design and external appearance of the proposal.

Planning Assessment

The proposed extension is of a small scale and the bungalow is sited within a large plot, there will be no adverse impact on the amenity of the occupiers of any adjoining dwelling and the scheme complies with the Council's Space About Dwellings standards.

The ridge of the proposed extension is set at a lower level than the ridge of the main bungalow and the extension will be constructed of materials to match the main dwelling, the design and appearance of the extension are considered acceptable.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
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.

Informatives:

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

03/08/2004

Item 1.6**Reg. No.** 92004 0699R**Applicant:**

E A Chamberlain
 Forefield House
 83 London Road
 Shardlow
 Derbyshire
 DE722GP

Agent:

Barton Willmore Planning Partnership
 Bourne Close
 Calcot
 Reading
 RG317BW

Proposal: The variation of conditions 1 and 8 of planning permission SED/873/138 to allow the submission of reserved matters and to remove the requirement of the concurrent building of the residential unit on Land to the north of London Road Shardlow Derby

Ward: Aston**Valid Date:** 01/06/2004**Site Description**

The site is part of a farm holding set behind Wakelyn Close and Shardlow Manor. There is a substantial range of farm buildings adjacent. The land lies in the green belt and in the conservation area.

Proposal

The proposal seeks to vary the time limit of an outline permission to enable reserved matters to be submitted. This would enable the farmhouse permitted under SED/873/138 to be built, subject to appropriate details. It also seeks to vary the condition that requires the dwellings and farm buildings to be built concurrently.

Applicants' supporting information

The applicant's planning consultant makes the following comments:

- a) The application is made under Section 73 of the Town and Country Planning Act 1990 to allow the submission of reserved matters. The planning permission has been implemented with the construction of the farm/storage building to which it relates, and thus has not lapsed.
- b) The background of the application is the agreement between the applicant and the former South East Derbyshire Rural District Council in 1974, to relocate the farm and its operations from the corner of Aston Lane/London Road to a new site on the north side of London Road, in order to reduce the problems caused to the free-flow of traffic and road

safety by the frequent use by farm vehicles of the original farm access. The planning permission therefore allowed the relocation of the farm, in the form of the storage building and farmhouse, to the north side of London Road as an exception to prevailing policies.

- c) Condition No 8 of the permission therefore sought that the relocation took place 'as a piece' and that the pre-existing site access should close as the new development was implemented. The applicant agreed to this approach and observed the Council's requirements in terms of ceasing the operations to the south of London Road and the closure of various accesses at and around the Aston Lane/London Road junction. The condition ensured that the farmhouse could not be built without the farm building, as had been done elsewhere in the district at that time, and this purpose would still be met by the construction of the farmhouse today.
- d) However at that time the applicant was unable to afford to construct the new farmhouse and building simultaneously, and accordingly sought to make temporary use of an existing house on London Road, where he still resides at present. Once his finances did allow for the new house the applicant chose to place the need of his farm workers first and instead applied the funds to the construction of new farm workers' dwellings at 9 & 11 Aston Lane. As a result it is only now, with the time and finances available, that the applicant is able to complete the agreed works from 1974 and to construct the farmhouse for which permission was granted.
- e) Although planning policy has been developed in the intervening years, the fundamental principles that affected consideration of the proposal in 1974 remain unaltered today. New housing in the countryside – then as now – needed to be justified and the agricultural exemption operated in much the same way as it does today. Moreover, although the permission preceded the formal designation of green belt boundaries in the South and South East Derbyshire Green Belts Local Plan of April 1983, a Provisional South East Derbyshire Green Belt was in effect in 1974, as the 1983 Green Belts Local Plan explains:

"The idea of maintaining a belt of open land around towns goes back many years but not until 1955 were local authorities throughout the country required to consider the establishment of Green Belts in appropriate areas.... In Derbyshire three Green Belts were created at this time in North-West, North-East and South-East Derbyshire. These Green Belts were used as a basis for day-to-day development control decisions although only one in North-East Derbyshire had been formally approved..." (paras 1.2 – 1.3) and:

"The first Green Belt proposals for South-East Derbyshire were drawn up in 1955. An extensive area of Green Belt was defined between Derby and Nottingham and northwards up the Erewash Valley, around Long Eaton, Ilkeston, Heanor and Ripley. The area covered by this Green Belt was modified on a number of occasions in 1957, 1961 and most recently in 1968 when part of the Green Belt was deleted within the boundary of Derby County Borough. ... Although never formally submitted to the Minister for his approval, the Provisional South East Derbyshire Green Belt was adopted by the local planning authorities and remained in force as a basis for the control of development." (paras 3.1 – 3.2)

The planning permission was therefore granted in full light of the Green Belt status of the land.

- f) One further change lies in the designation of the Conservation Area in Shardlow, which includes the site of the new farmhouse. However, this seeks to ensure that the character and appearance of the Area is preserved or enhanced and does not provide a bar to new development. Subject to suitable quality in the design, appearance and landscape

treatment of the new house, the purpose of Conservation Area designation wouldn't be offended by the construction of the farmhouse.

- g) The policy context for the proposed development has therefore not altered since 1974 and there is no substantial change of circumstances that would justify reviewing the planning permission as a whole. All that is required for the farmhouse to be constructed is modification of two conditions to enable the reserved matters details to be submitted and to delete the unnecessary suggestion of concurrent construction of the farmhouse and farm buildings.
- h) The dwelling is still needed for the purposes of agriculture, as the applicant's existing house will be passed on to a new farm worker who is replacing a retiring worker. The applicant will thus be able to maintain his presence adjacent to the farmyard. It remains the case that occupation of the dwelling will be restricted to a person employed in agriculture in accordance with Condition 5 of the outline permission.

Planning History

The applicant's résumé of the planning site history is correct in its facts.

Responses to Consultations

The Parish Council and the Highway Authority has no objection. The County Planning Authority has been consulted and its response will be reported verbally.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 7 and Environment Policy 9.
Local Plan: Green Belt Policy 3 and Environment Policy 12.
Emerging Local Plan: Policies ENV 6 & 20.

Planning Considerations

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

- The principle.
- Impact on the character and appearance of the conservation area.

Planning Assessment

The application is submitted under the provisions of Section 73 of the 1990 Act. This allows for applications to vary conditions relating to extant permissions. Reserved matters approval was granted for the agricultural storage building within the relevant time limits and this building was subsequently constructed. The permission was thus made extant. However the application for reserved matters for the house was not submitted within the time limit. Therefore the applicant

cannot apply for reserved matters without having first obtained the permission of the Local Planning Authority to extend the time limit under Section 73.

The Local Planning Authority is entitled to consider whether there are changed planning circumstances that now militate against the proposal. Circular 11/95 (The Use of Conditions in

Planning Permission) states that as a general rule, such applications should be refused only where:

- a) There has been some material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant highway considerations, or the publication by the Government of new planning guidance, material to the renewal application);
- b) Continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area; or
- c) The application is premature because the permission still has a reasonable time to run.

With regard to criterion a) it is considered that the consultant acting for the applicant has provided a robust assessment of the changes in planning circumstances. These do not amount to sufficient weight as to justify refusal of the application to extend the time limit. The basic thrust of policy has remained consistent over the intervening years. The other criteria of the circular are not offended by the proposal.

Whilst the site is now in the conservation area the construction of an appropriately designed dwelling on the site would not harm its character, a component of which is the existing working farm.

The condition requiring concurrent building of the house and farm building is no longer necessary. Its stated reason was to ensure no impairment to the flow of traffic on the (then) trunk road. It would also have achieved the objective of precluding the erection of the dwelling in advance of the farm building that formed part of its justification. Clearly the removal of the requirement would not prejudice either of these 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

GRANT permission subject to the following varied 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 either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

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

2. This consent issued by the Local Planning Authority shall be for one residential unit only, which shall be justified on agricultural grounds and be provided with new farm building and in conjunction with the discontinuance of the existing farming activities at the site situated at the Aston Lane/London Road junction shown edged yellow on the submitted plan and the permanent closing of the access marked X on the plan.

Informatives:

Conditions 1 and 2 above hereby vary Conditions 1 & 8 attached to Planning Permission SED/873/138 respectively.