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Date: 15 August 2014

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, on **Tuesday, 26 August 2014 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

Councillor Ford (Chairman), Councillor Mrs. Brown (Vice-Chairman) and Councillors Bale, Mrs. Hall, Jones, Stanton and Watson.

**Labour Group**

Councillors Bell, Dunn, Pearson, Richards, Shepherd and Southerd.

## **AGENDA**

### **Open to Public and Press**

- 1** Apologies and to note any substitutes for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** Report of the Director of Community & Planning Services. **3 - 52**

### **Exclusion of the Public and Press:**

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

# **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

**SECTION 1: Planning Applications**

**SECTION 2: Planning Appeals**

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

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## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2013/0675	1.1	Church Gresley	Church Gresley	1
9/2014/0114	1.2	Hatton	Hatton	9
9/2014/0228	1.3	Barrow	Aston	20
9/2014/0238	1.4	Egginton	Etwall	28
9/2014/0709	1.5	Melbourne	Melbourne	34

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

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

**Item**            1.1

**Reg. No.**        9/2013/0675/RSD

**Applicant:**  
**Mr S Barker**  
**260 Richmond Road**  
**Ilstock**  
**LE67 6HU**

**Agent:**  
**Mrs Marissa Sudar**  
**Worcester Architects**  
**33 Glebe Rise**  
**Littleover**  
**Derbyshire**  
**DE23 6GX**

**Proposal:**        **CONVERSION OF EXISTING RESIDENTIAL NURSING  
HOME AND ASSOCIATED ACCOMMODATION INTO  
RESIDENTIAL APARTMENTS AT HILLTOP LODGE  
NURSING HOME COLLIERY ROAD CHURCH GRESLEY  
SWADLINCOTE**

**Ward:**            **CHURCH GRESLEY**

**Valid Date:**     **30/01/2014**

*Members will recall deferring consideration of this application to enable a site visit to take place. There have been no alterations to the report.*

### **Reason for committee determination**

This is a major application that has attracted more than two objections.

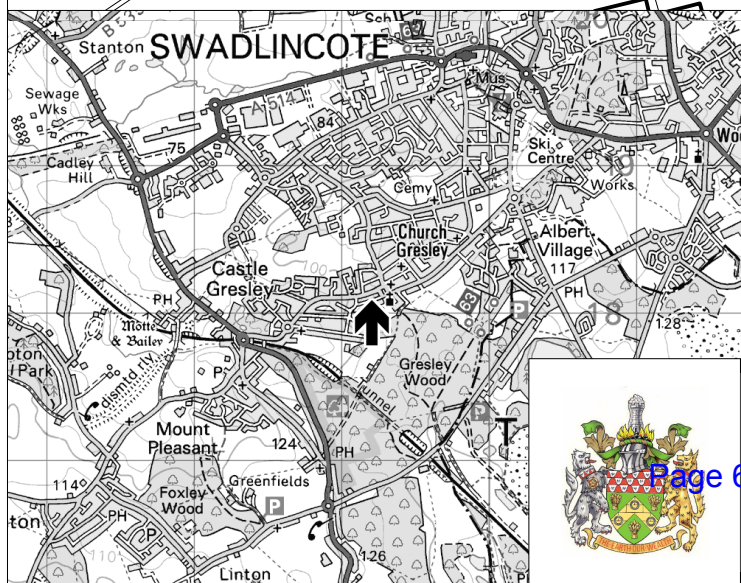
### **Site Description**

This former nursing home is a part single storey/part two storey, U-shaped building located between two terraces of existing residential properties at the eastern end of Castle Road and occupies a sloping site. To the south is an industrial estate, together with its associated buildings. The site is accessed via Colliery Road, which is a narrow lane with an unmade surface that also provides vehicular access to Nos. 1 to 9 Colliery Row to the west of the site. The site is within the built-up area of Church Gresley.

### **Proposal**

This application proposes the conversion of the building to form a total of 15 apartments, which is a net increase of 14 residential units, as there is currently an existing manager's flat that served the former nursing home. Amended plans indicate the proposal would provide 1 x 1- bedroom apartment, 13 x 2-bedroom apartments and 1 x 3-bedroom apartment. Car parking would be provided at a ratio of one space per apartment. Bin stores and cycle storage would also be provided.

**9/2013/0675 - Hilltop Lodge Nursing Home, Colliery Road, Church Gresley, Swadlincote DE11 9LU**



## **Applicants' supporting information**

No supporting information has been submitted.

## **Planning History**

9/1990/0575 – Formation of office and laundry in basement and erection of 2m high gate at entrance - approved

## **Responses to Consultations**

The County Highway Authority states that the proposal is not ideal in highway terms and expresses concern with regard the likely increase in traffic generated by the site and the fact that only one parking space per dwelling unit is proposed. However, in view of the location of the site and the existing use, it considers that an objection on highway grounds could be not be sustained. In order to minimise the impact on the surrounding highway network, two conditions are requested in respect of road surfacing and the provision of parking and manoeuvring space prior to first occupation.

Derbyshire County Council has requested developer contributions towards:

- The provision of a new Household Waste Recycling Centre (£400.54);
- Three primary school places (£34,197.03)
- Two secondary school places (£34,352.34)
- One Post-16 education place (£18,627.90)
- New homes designed to Lifetime Homes standards.

Severn Trent Water has no objections subject to a condition with regard to details of the disposal of foul and surface water drainage.

The local County Council Member (Councillor Trevor Southerd) has commented that the retaining wall onto Castle Road requires monitoring and remedial work undertaken where necessary to prevent its collapse onto the highway.

Commenting on the original plans Councillor Stuart raised the following points:

- Would like a condition that the owner/developer should ensure that the retaining wall onto Castle Road is monitored and/or repaired as it looks to be in poor condition in places.
- A similar condition is required to control the vegetation overhanging Castle Road.
- Concerned about the lack of cycle provision.
- Physical state of the road
- Insufficient parking

## **Responses to Publicity**

Four emails have been received, all of which express concern about the poor state of the road surface of Colliery Road. They make the following points:

- a. The proposed resurfacing of the road should extend to the part that serves the 9 houses to the rear of the application site.

- b. The road should not be blocked when construction works commences on the building.
- c. Inadequate parking to serve 15 flats.

One further email has been received in response to the amended plans. This reiterates earlier comments with regard to the resurfacing of the access road, pointing out that as there is likely to be disruption during the conversion works it is only fair that the entire road is re-surfaced. The Council should strongly consider adopting the road on completion of the conversion works and display a road sign to inform people that it is Colliery Road.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Saved Housing Policies 4, 7, 11; Transport Policy 6  
Housing Design and Layout SPG

## **National Guidance**

National Planning Policy Framework (NPPF), paragraphs 7, 14, 17, 49, 51, 186, 187

NPPG

## **Planning Considerations**

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

- The principle of development
- Design and Layout
- Highway matters
- Section 106 contributions

## **Planning Assessment**

### Principle of development

Hilltop Nursing Home is located within the built-up area of Church Gresley and is close to shops and a range of other facilities, including a bus service and a school. As such the site is considered to be sustainable. The building has been vacant for some time and the site is becoming overgrown and untidy. The application proposes the conversion of the building to provide a total of 15 apartments, together with associated parking, cycle storage and bin stores. External alterations include replacement doors and windows, the formation of a new window opening and some bricking up of existing door openings to form windows. A raised platform with timber/metal railings is proposed along part of the west facing elevation. There is an existing vehicular access into the site, via Colliery Road.

The building is within an area where residential development is usually supported by Local Plan Saved Housing Policy 4, which states: 'Residential development within or on the fringes of the built-up area of (inter alia) Church Gresley will be permitted provided that the site is substantially surrounded by the development and:



- (i) Does not result in a prominent intrusion in the rural landscape outside of the built-up area;
- (ii) Does not involve the loss of the best and most versatile agricultural land;
- (iii) Does not constitute ribbon development other than the infilling of a small gap in a substantially built-up frontage;
- (iv) Does not place excessive demands upon public utility services;
- (v) Does not involve the development of open spaces. Gaps and landscaping features which make a positive contribution to the character or environmental quality of the area;
- (vi) Is of a suitable scale and character; and
- (vii) Does not prejudice the continued viability of adjacent industrial premises or community facilities’.

Saved Housing Policy 7 supports proposals that involve the conversion of existing buildings to residential use provided that it is in keeping with the original building and is not detrimental to the character of the settlement.

It is considered that the proposal is in accord with the above two policies.

Paragraph 51 of the NPPF relates specifically to proposals to convert buildings to residential uses, and states: ‘Local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers. They should normally approve planning applications for change to residential use and any associated development from commercial buildings where there is an identified need for additional housing in that area, provided that there are no strong economic reasons why such development would be inappropriate’.

The proposal is also in accord with the above advice and therefore it is considered the principle of development is acceptable.

### Design and Layout

The closest residential properties to the application site are Nos. 1-9 Colliery Row to the west, all of which have habitable room windows facing the site. The shortest distance between the existing properties and the application building is 16.5m and the longest distance is 20m. The first floor windows within the converted building would all serve bedrooms, other than apartment 4 which would have a kitchen/living room facing towards No.s 8 and 9 Colliery Row. The minimum standard as stated in the SPG from first floor bedroom to first floor bedroom is 15m which can be met. The prescribed distance from kitchen to first floor bedroom is 12m, which, again, can be met. The minimum distance from kitchen to living room is 18m. This could be achieved for No.s 1 to 7 but not for No.s 8 and 9 (approximately 1.5m short). However, bearing in mind the previous (residential) use of the building, and, the fact that there is a vehicular access and parking area between the two buildings, it is considered that the minimum standards could be relaxed in this instance, in line with the advice within the SPG, which states: ‘Where there are opposing elevations, separated by public areas, such as a highway, and having regard to the surrounding area, the guidelines may be relaxed’. The distances between the habitable room windows of Apartment 4 and No.s 8 and 9 Colliery Row are not considered to be so far from the minimum distances set out in the SPG as to warrant a refusal on this ground. Whilst there are some habitable room

windows serving kitchen/living areas within the ground floor of the building, these would be screened by an existing brick wall which provides adequate protection from overlooking.

Owing to the lack of ground area associated with the site, the proposed scheme does not include any form of amenity space for the apartments. Whilst this is regrettable, the Council has set no minimum level of required provision within the SPG. However, the SPG does acknowledge that some level of amenity area for blocks of flats should be provided in order to facilitate, for example, the storage of refuse bins and for the drying of washing. Two bin storage areas would be provided – one adjacent to the cycle storage area and the second adjacent to the car park. No clothes drying facilities are shown on the submitted drawings. Whilst not ideal it is highly doubtful that a refusal could be sustained on this basis and prospective occupiers are likely to be aware of the situation at the time of purchase.

Environmental Health has also been asked to undertake an assessment of the proposal against the regulations relating to 'Crowding and Space in Residential Premises'. As a result, amended plans have been received which show that apartment 4 would now become a two-bedroom apartment, rather than three-bedroom as originally proposed, as the bedroom sizes were below standard. A new window opening to serve a bathroom would also be created. Other than this the scheme is considered to be acceptable in terms of these standards.

#### Highway matters

The poor state of the road surface has been addressed and an amended plan received to show that the length of road from its junction with Church Street down as far as the western end of the building would be resurfaced with tarmac on completion of the construction works and prior to first occupation. The amended plans now show the inclusion of the access within the red line and therefore its resurfacing can be controlled by condition. The points raised by the adjacent neighbours with regard to the surfacing of Colliery Road have been noted. However, this area lies outside the application site and the applicant has no legal control over it. It would be unreasonable, therefore, to require the applicant to undertake these works. Adoption of Colliery Road would be a matter for the County Council.

The proposed scheme includes the provision of 15 car parking spaces, which equates to one space per apartment. Whilst this is considered to be minimal provision, it should be borne in mind that the site is in an urban location where on-street parking is commonplace, although, admittedly, not plentiful. Whilst the County Highway Authority (CHA) has raised the issue within its consultation response, given the location and the previous use of the building, which generated a certain level of traffic and parking, it is noted that the CHA does not consider that a refusal on these grounds could be sustained at appeal.

In response to Councillor Stuart's comments, it has now been agreed that cycle storage would be provided between the western elevation of the building and the site's existing retaining wall.

#### Section 106 contributions

The scheme is for the provision of 15 residential units, a net increase overall of 14 and therefore Section 106 contributions are required if permission is granted. These would be for the following:

- Education £87,177.27
- Healthcare £7,714.00
- Recreation open space £10,416.00
- Recreation outdoor facilities £6,160.00
- Recreation built facilities £3,416.00
- Waste contribution £400.54

It is considered that the above contributions are in accord with the Developer Contributions Protocol and are compliant with guidance within the Community Infrastructure Levy. A draft Section 106 Agreement has been drawn up to include the above contributions and the applicant is aware of the above requirements. There is no requirement for the applicant to provide any affordable housing as part of this development as the number of units proposed does not trigger the need for such provision.

### Summary

In conclusion, therefore, it is considered that the principle of the development is acceptable and in accord with local and national policies and advice. The layout of the apartments is acceptable in terms of living standards and the site layout is acceptable with regard to car parking, bin storage and cycle storage. There are no highway objections and the resurfacing of Colliery Road can now be controlled by condition. Whilst the ratio of car parking spaces to apartments is low, it is considered that, given the site's location and previous use, it would be difficult to make a case against this at an appeal. Taking account of all of the above, and subject to the applicant entering into a legal agreement, a recommendation for permission follows.

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 the applicant entering into a Section 106 Agreement as set out in the S106 contributions section above, **GRANT** permission subject to the following condition:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. This permission shall relate to the amended drawings, no.s 105 2013 003 Revision D, 105 2013 004 Revision C and 105 2013 005 Revision B showing in particular the inclusion of bin stores and cycle storage, revisions to apartment 4 and the inclusion of the access road within the red outline.

Reason: For the avoidance of doubt and in the interests of the completed development.

3. 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 protection and pollution control.

4. Prior to the first occupation of any of the apartments hereby approved the car parking and manoeuvring space shall be laid out in accordance with the application drawing 105 2013 003 Revision D and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

5. Prior to the first occupation of any of the apartments hereby approved the access as shown on the attached drawing 675/cond5 shall be resurfaced in a solid bound material in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

6. 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.

7. Unless otherwise agreed in writing by the Local Planning Authority, the structural condition of the retaining wall along Castle Road shall be the subject of a condition and remediation report by an appropriately qualified person to be submitted to the local planning authority. Any remedial works recommended in the report shall be fully implemented prior to the first occupation of the apartments hereby permitted.

Reason: In the interests of public safety

#### Informatives:

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

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

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and by seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal and by promptly determining the application. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework. The works will require approval under the Building Regulations.

**Item**            **1.2**

**Reg. No.**        **9/2014/0114/FM**

**Applicant:**  
**Mr S Ermolenko**  
**70 Scropton Road**  
**Hatton**  
**Derby**  
**DE65 5DT**

**Agent:**  
**Mr Ian McHugh**  
**IMcH Planning & Development**  
**Consultancy**  
**20 Attewell Close**  
**Draycott**  
**Derby**  
**DE72 3QP**

**Proposal:**        **ALTERATIONS OF EXISTING BUILDING AND CHANGE**  
                         **OF USE TO A DWELLING AT 70 SCROPTON ROAD**  
                         **HATTON DERBY**

**Ward:**            **HATTON**

**Valid Date:**      **10/02/2014**

**Reason for committee determination**

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

**Site Description**

The application site is an existing building in the rear garden of 70 Scropton Road which is accessed from a shared drive to the west of 70 Scropton Road. The site is in a residential area and there are recently constructed dwellings to the rear also accessed from the shared drive. Number 70 Scropton Road also benefits from and further existing access to the east directly from Scropton Road. The site lies within an area of flood risk and whilst the site is within Flood Zone 3 as identified on the Environment Agency Flood Maps the site, as well as the surrounding properties, benefit from recently constructed flood defence improvements.

**Proposal**

The application is in full and is to change the use of the building to create a separate dwelling consisting of a lounge, kitchen, bathroom and two bedrooms. In order to facilitate the change of use it is also proposed to alter the windows/doors so that the front would consist of a kitchen window and French doors to the lounge, the southern side elevation would have a smaller, secondary window to the lounge, a door into the rear of the lounge as well as the window to a bedroom.



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South Derbyshire District Council. LA 100019461. 2014



Off-street parking would be provided as existing on the hard surfaced areas in front of the building, accessed from the private drive which leads to Scropton Road.

In terms of garden space it is proposed to alter the fence line that current crosses the rear garden at the side of the building to allow a side garden to serve the proposed dwelling measuring approximately 5.7m in depth.

### **Applicants' supporting information**

The application is accompanied by a Flood Risk Assessment (FRA) and a Planning Statement.

The Flood Risk Assessment states that the site is in Flood Zone 3 but the recently completed defences protect the site to a level similar to Flood Zone 2. Whilst the defences can be overtopped the chances are very low. The development will include flood resilience measures to protect the building

The Planning Statement states that they consider the main issues to be character and appearance, flood risk and effect on occupiers of the proposed dwelling and neighbours.

In terms of character it asserts that there are a mixture of house types and sizes and that garden sizes nearby also differ. It states that there is no distinct or special character and the proposal would be a simple and plain bungalow.

In terms of flood risk the statement states that the site benefits from recently completed flood protection improvements equivalent to Flood Zone 2 therefore the risk is low, that escape for occupiers is available, that the County Emergency Planning Officer has accepted the proposal and that the applicant will enrol onto the Environment Agency's Early Warning System.

In terms of living conditions the statement states that care has been taken to respect adjoining properties in relation to overlooking and privacy. The statement states that the proposal does not quite conform to the Council's Space Guideline they ask for flexibility (although it should be noted that subsequent to the submission the scheme has been amended in order for it to comply). It states that there will be no overlooking of the houses to the west, 72 Scropton Road or the recently constructed properties and that the proposal complies with the NPPF.

The statement also states that adequate parking exists and that they consider that the proposal is appropriate in the context.

### **Planning History**

The garage was first erected as a garage under permitted development rights associated with 70 Scropton Road and was subsequently altered again under permitted development rights.

An application to convert the garage as altered into a separate residential unit was submitted (ref: 9/2008/0957) but was ultimately withdrawn prior to determination and a subsequent application accompanied by a Flood Risk Assessment was also made (ref: 9/2009/0290) but this was also withdrawn prior to determination.



The building was, at one stage, occupied as a separate dwelling and application ref: 9/2011/0546 which was a retrospective application for the conversion and extension of double garage to bungalow was submitted but was refused under delegated powers for the following reasons:

*"1. The site lies within Flood Zone 3 defined by Planning Policy Statement 25 as having a high probability of flooding where notwithstanding any mitigating measures proposed, the risk to life and / or property, from fluvial inundation would be unacceptable if the development were to be allowed. In particular:*

*1) The site is currently not defended to the 1% (100 year) standard, and that is without taking into account increases due to climate change over the lifetime of the development.*

*2) The finished floor level (unstated, therefore assumed to be at the existing garage level of 54.10m AOD) does not meet Environment Agency's behind defences recommended minimum floor level of 55.07m AOD, which is 600mm above the current residual defended flood level of 54.47m AOD during the 100 year (1% chance in any one year) fluvial flood event.*

*3) Due to the above the dwelling would currently be subject to flooding in the order of 400mm deep during the 100 year (1% chance in any one year) fluvial flood event.*

*4) Details of any proposed resistance measures specific to this dwelling have not been stated, paragraphs 9 and 10 of the FRA refers to measures to reduce the impact of flooding in relation to the proposed new dwellings on the adjacent land, and not the application development, so are therefore not necessarily appropriate for, or applicable to this building.*

*5) The proposed development does not have a safe pedestrian means of access and/or egress during the 100 year (1% chance in any one year) fluvial flood event, the depth of which would be a minimum 740mm where the site access road meets Scropton Road.*

*6) According to the FRA the site is lower than the general land level in the locality and therefore vehicle movements through any floodwater to this or any of the adjacent properties down the shared access road, would subject the site to waves and vehicle wash, resulting in an increased risk of flooding to the proposed dwelling.*

*Consequently, there would be an unacceptable risk to the health and safety of the occupants in a flood event, if they stayed in this single storey dwelling, or were not evacuated prior to the onset of flooding."*

*"2. The proposed bungalow is situated on a small plot adjacent to other houses and bungalows, being part of the curtilage to No 70 Scropton Road. Housing Policy 11 of the adopted South Derbyshire Local Plan and the Council's adopted Supplementary Planning Guidance - Housing Design and Layout require and set minimum standards of separation between main living room windows in both proposed and existing dwellings. The proposed conservatory and the windows in the side elevation of the application building fail to meet the minimum separation distances for habitable rooms with plain glazing. In order to address this issue the application proposes, in the original garage, the use of obscure glazing to habitable rooms, in order to address the issue of*

*overlooking. The resultant living accommodation would be of a poor quality, failing to provide reasonable amenities for the occupiers because the plot is too small for occupation of the building as living accommodation separate from 70 Scropton Road.”*

Following investigation and intervention that use ceased and the Council's Enforcement Officers are satisfied that the current usage is not in breach of its authorised use.

## **Responses to Consultations**

County Highway Authority advise that they raise no objection to the proposal subject to conditions relating to the maintenance of the existing visibility splay to Scropton Road as well as parking for the new and existing property being retained.

Severn Trent Water advises that they have no objection to the proposal.

The Environment Agency advises that they raise no objection to the proposal subject to the recommendations in the FRA being incorporated i.e. the provision of flood resilient and resistant measures being provided to 55.10 mAOD.

## **Responses to Publicity**

Commenting on the original plans 6 of objection received which can be summarised by the following points:

- a) It is not a garage but has been lived in for some time.
- b) We expected it to be turned back to a garage.
- c) Q3 on the forms says it has not already happened but it has.
- d) Previously the floor was too low for flooding.
- e) It is not brick and render as it is not finished.
- f) It can be seen from Scropton Road.
- g) Is the sewer safe as it was built some time ago?
- h) Will they provide a soakaway?
- i) It is a small, over populated site.
- j) It was built as a garage but Building Regulations approval was sought and it should have been used for his private and personal purposes, but he has tried to convert it.
- k) I have had to write over many years following numerous applications.
- l) The description is wrong, it is not a garage and is domestic in appearance and was never intended as such.
- m) It is not a conversion – it is a new dwelling on the site.
- n) The conversion date given by the agent is incorrect; it was before the date given.
- o) It has always been let out as separate dwelling and never been a garage and not as ancillary accommodation.
- p) It is a resubmission but there have been no material changes to planning policy or other considerations since the previous application was refused. It still does not meet the Council's standards or change in flooding terms.
- q) The size of the garden at 5.7m x 15m is some 85sq m and the same as previously proposed and this is insufficient for a small family that could occupy the property and would leave the existing property with inadequate garden which is befitting its size.
- r) The distance between the first floor bedroom window and the proposed lounge is 13.8m but the standards state this should be 15m and the applicant asks for

flexibility to be applied but there is no justification or special case. The window is not secondary and would overlook the garden therefore is important.

- s) The character of the area is one of substantial family homes but this would be small, on a small plot and of a “one-box” form with a shallow roof with the appearance of a garage – the changes will not help and it will be out of keeping.
- t) As it is stated to be a conversion and not retain a building constructed as a dwelling any exemptions relating to change of use do not apply. New dwellings have to pass the Sequential and Exceptions Tests.
- u) The Emergency Planning Officer at the County advises raised floor levels, flood resilient doors and non-return valves on drains etc. – these have not been done and the floor levels cannot be raised easily.
- v) The submitted plan showing the northern boundary is inaccurate and part of the building including waste pipes and overflow are built on the land of the property to the north. Whilst this is a civil matter the ownership certificate is incorrect and the owner of the adjacent property to the north has been prejudiced from making representations.
- w) I ask that immediate enforcement action be taken against the development and all the internal domestic fittings e.g. plumbing, kitchen etc. are removed in three months and residential occupation ceased immediately. Previous requests have seen no action taken and I advise that it is not an annexe but wholly self-contained.
- x) Please note that No.70 is offered for sale, no mention is made of the building and it is not clear where the rear boundary will be located and anyone purchasing may assume the entire garden is included. There is a real concern that the garden proposed to be allocated to the proposal would not be provided and its use as an annexe would cease if sold off separately.
- y) The site is not big enough to accommodate the bungalow.
- z) If he had applied for a bungalow when it was a “garage” it would have been refused.
- aa) It has always been with conversion in mind (cavity walls etc., window positions etc.).
- bb) There have been numerous unrelated people living in there disregarding planning laws.
- cc) It should be a Committee decision.
- dd) The boundary is 6 inch from the face of the wall down the centre of the wall, not as shown – it was erected as a shared wall between me and the applicant with the cost shared.
- ee) My step son who is a retired Police Officer heard the applicant acknowledge he needs the neighbours’ permission to access the gap and a statement to this effect has been supplied.
- ff) I have complained to the Enforcement section about the proximity to the boundary.
- gg) We are elderly and this is causing stress and I have recently had a heart attack.
- hh) There is a concern from a local resident about the boundary wall.

## **Development Plan Policies**

The relevant policies are:

Local Plan:

Housing Policies 7 and 11; Environment Policy 2; Transport Policy 6.

## National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)  
Paras 11-14 (The presumption in favour of sustainable development)  
Para 17 (Core principles)  
Chapter 4 (Promoting sustainable transport)  
Chapter 6 (Delivering a wide choice of high quality homes)  
Chapter 7 (Requiring good design)  
Chapter 10 (Meeting the challenge of climate change, flooding etc.)  
Paras 186 & 187 (Decision-taking)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations)

Annex1 (Implementation)

The National Planning Practice Guidance (NPPG)

## Planning Considerations

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

- Flood risk,
- Impact of the proposal on highway safety,
- Impact on the amenity of residents, and
- Impact on the character and appearance of the area.

## Planning Assessment

### Flood risk

The application site lies in an area that is designated as Flood Zone 3 as shown on the Environment Agency flood maps, but benefits from the recently improved flood defences. Notwithstanding the comments received in the letters of objection the building is lawful and therefore the proposal must be viewed as a change of use and therefore the Sequential and Exceptions Tests do not need to be applied. Nevertheless there is still a requirement to consider flood risk and the NPPF at Para. 100 states that *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.”* The NPPG at Para. 48 also states that *“change in use may involve an increase in flood risk if the vulnerability classification of the development is changed. In such cases, the applicant will need to show in their flood risk assessment that future users of the development will not be placed in danger from flood hazards throughout its lifetime.”* Local Plan Policy EV2 states that, amongst other things, new development must be protected from flooding. It is noted that the proposal includes a FRA which recommends the provision of flood resilience and resistant techniques to be provided and this approach has been accepted by the Environment Agency who raise no objection to the proposal. Whilst the previous application was refused on flood risk grounds the flood defences have now been

improved and those concerns have been addressed. With this in mind it is considered that subject to the imposition of a suitably worded condition the proposal is a suitable conversion and would be adequately protected from the risk of flooding.

#### Impact of the proposal on highway safety

Local Plan Transport Policy 6 states that planning permission will not be granted for development which interferes with the free and safe flow of traffic and that policy is relevant as it echoes the NPPF at paragraph 32 which states, amongst other things, that safe and suitable access to the site can be achieved for all people; and development should only be prevented or refused on transport grounds where the impacts of development are severe. The County Highway Authority were consulted on the proposals and in their reply they have stated that, subject to conditions relating to the provision and retention of parking and the maintenance of the existing visibility splay to Scropton Road, they raise no objection to the proposal. In light of this it is considered that the proposal would not be detrimental to the best interests of highway safety and as such in these terms that aspect of the proposal is considered to be acceptable.

#### Impact on the amenity of residents

One of the core principles of the NPPF as set out in Para. 17, is to *“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”*. The requirements of Local Plan Housing Policy 11 is relevant as it echoes the NPPF and it seeks to ensure that new housing is of a standard that does not affect, amongst other things, the residential amenity of neighbours and is of a functional layout. To assist in assessing these issues the Housing Design and Layout SPG has been adopted by the Council and this requires minimum separation distances between habitable rooms and to ensure that private amenity space is not affected by new housing in a manner that would be unduly detrimental to the occupation of the adjacent dwelling.

It is noted that one of the reasons that the previous application was refused was on amenity grounds as it did not comply with the standards set out in the Council's Housing Design and Layout SPG. It was considered that the resultant living accommodation would be of a poor quality that would fail to provide reasonable amenities for the occupiers because the plot is too small for occupation of the building as living accommodation separate from 70 Scropton Road.

The proposal would not have any undue adverse impact on the properties to the east, west or north but the main impact of the development would be on the amenity of the occupiers of the existing property, 70 Scropton Road, to the south. The existing property has a landing and two bedroom windows in the upper floor of the rear elevation that face towards the building the subject of the application. The proposal has been amended since submission so that the lounge has what is clearly a secondary window in the side elevation facing south towards those bedroom windows and as such these can be discounted in terms of applying the adopted standards. The bedroom window in the proposal is set 16m from the nearest first floor bedroom window in the existing property, well in excess of the 12m required by the adopted standards. Whilst there is a door to access the property in the side elevation this is to the rear of the lounge. It is noted that the first floor bedroom windows in the existing property are approximately 7m from the new position of the fence to the shared boundary with the proposed bungalow. However, this would not result in any undue overlooking that would significantly



adversely affect the amenity that the occupiers of the new property could reasonably expect to enjoy by way of overlooking and lack of privacy. A garden in excess of 85 sq m would result from relocating the existing fence to increase the garden to the proposed bungalow and this is considered adequate to serve the proposed property.

Notwithstanding the previous reason for refusal it is considered that whilst the bungalow is modest and set on a modest plot, as a single issue it is considered that refusal of the application for its size as a sole reason could not be reasonably sustained. The comments contained in the letters of objection are noted, however, it is considered that notwithstanding the points raised the proposal would create an acceptable living environment of the occupiers of the proposed bungalow whilst ensuring that the occupiers of the existing property are not unduly affected by the proposal. As such in terms of amenity the proposal is considered to be acceptable and any impact could not reasonably be considered to be so great so as to reasonably justify refusal of the application.

#### Impact on the character and appearance of the area.

The NPPF at paragraph 64 states that permission should be refused for development of poor design that fails to take opportunities for improving character and quality of an area. This approach is reflected in the Adopted Local Plan Policy H11. It is also noted that paragraph 60 of the NPPF states that decisions should not try and impose architectural styles or particular tastes and not stifle innovation, originality or initiative local distinctiveness should be promoted. It is also acknowledged that there are differing styles of property in the area. In this case the size of the proposed building relative to the size of the plot would not create an unacceptable form of development that would be detrimental to the overall visual amenity of the area. Notwithstanding the comments received, in terms of design the proposal is considered to be acceptable as the changes to the frontage are modest and they relate to an existing building. In this area there is a significant variation in house types and styles and whilst it is acknowledged that the footprints are larger than those nearby the backland location of the property would be such that it would be neither cramped nor out of keeping. In terms of general design the approach is considered appropriate and consists of modest alterations in terms of windows/french doors to the front, western elevation, which would create an acceptable appearance. Whilst similar the proposed houses are slightly different which would enhance their appearance and avoid uniformity. Whilst the comments in relation to the size of the plot referred to by neighbours are noted, as is the reason for refusal of the previous application, it is considered that on balance is not considered to be justification to resist the application.

#### Other matters

With regards to other matters that have not been covered above the description of the development has been amended to refer to an existing building rather than a garage; the Council's Enforcement Officer is satisfied that there is no breach of planning control; the material finish can be secured by condition; drainage will be considered by Building Regulations and it is noted that Severn Trent Water raise no objection to the proposal; the Emergency Planning Officer at the County provided advice to the applicant, some of which was taken up; the applicant has specifically checked the ownership issues raised and has confirmed that they are of the view that there is no encroachment and that the appropriate ownership certificate has been signed (i.e. Certificate A); no enforcement action is justified; any future sale of, or purchasers of, 70 Scropton Road would have to

take responsibilities for knowledge of the application and the provision of the relocated fence can be secured through condition.

The proposal represents an appropriate form of development that would be acceptable in terms of design, impact on neighbours, flood risk and highway safety and as such is considered to be acceptable.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. This permission relates to the plans validated by the Local Planning Authority on 10th February 2014, as amended by the revised drawing number 11029.01 Rev A, and any variation to the approved drawings may need the approval of the Local Planning Authority.  
Reason: For the avoidance of doubt as to what is approved.
3. Prior to the occupation of the dwelling hereby permitted the off-street car parking spaces shown on approved drawing ref 11029.01 Rev A shall be provided and shall thereafter be retained free from any impediment to their designated use.  
Reason: To ensure that adequate off-street parking is provided and retained for use to reduce the incidence of on-street parking and its attendant dangers in the interest of highway safety.
4. Once the dwelling hereby approved is first occupied the existing off-street car parking spaces to the east of 70 Scropton Road directly accessed from Scropton Road shall thereafter be retained free from any impediment to their designated use.  
Reason: To ensure that adequate off-street parking is provided and retained for use to reduce the incidence of on-street parking and its attendant dangers in the interest of highway safety.
5. The existing visibility sightlines of 2.4 m by the 43m in both directions shall be maintained at the junction of Scropton Road and the site access, the area within the sightlines shall be kept clear of any object greater than 1 m in height (0.6 m in the case of vegetation) above the nearside carriageway channel level.  
Reason: In the interests of highway safety.
6. The development hereby permitted shall incorporate flood resistant and resilient measures to a minimum level of 55.10 metres above Ordnance Datum (mAOD) unless otherwise agreed in writing by the Local Planning Authority in consultation with the Environment Agency.

Reason: To reduce the impact of flooding on the development and its occupants.

7. Details of flood resilience measures to be included within the development shall be submitted to and approved in writing by the Local Planning Authority and the measures approved by this condition shall be provided before the dwelling is first occupied and shall thereafter be retained throughout the lifetime of the development.

Reason: To reduce the impact of flooding on the development and its occupants.

8. Prior to the dwelling hereby permitted being first occupied details of the render to be applied to the external parts of the building, including its texture and colour and the areas to which it is to be applied, shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved type of render approved by this condition has been applied to all identified surfaces.

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

9. Prior to the dwelling hereby permitted being first occupied all windows and doors shown on approved drawing number 11029.01 Rev A shall be provided.

Reason: To protect the amenity of neighbours.

10. Prior to the dwelling hereby permitted being first occupied the revised location for the fencing separating the gardens of the existing and proposed dwellings shown on approved drawing number 11029.01 Rev A shall be provided. Once provided a fence and garden area to the approved dwelling must be retained in that location throughout the lifetime of the development.

Reason: To ensure adequate amenity space is provided to serve the new dwelling.

11. The dwelling hereby approved shall not be occupied until full details of both hard and soft landscape works and means of enclosure, including a programme for implementation have been submitted to, and approved in writing by, the Local Planning Authority. The works shall be carried out as approved. Any trees or plants which, within a period of 5 years from the completion of the development or the approved scheme (whichever is the later) 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: To ensure that satisfactory landscaping is provided within a reasonable period in the interests of visual amenity.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the dwelling hereby permitted shall be extended or altered externally, be provided with new windows or doors, have its roof enlarged or altered, be provided with any porches, incidental building, structure or enclosure, additional hard surface, or be painted externally.

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

Informatives:



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

The applicant is advised that following consultation with the Environment Agency they have advised that the occupants should register with their free Flood Warning Service by contacting Floodline on 0845 9881188. The advance warning of a flood provides valuable time to take action and be prepared. Further information on preparing a Flood Plan and ways to limit the damage caused by flooding is available on their website at: <https://www.gov.uk/government/organisations/environment-agency>

**Item** 1.3

**Reg. No.** 9/2014/0228/FO

**Applicant:**  
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**5 Brecon Close**  
**Spondon**  
**DE21 7JD**

**Agent:**  
**Mr Paul Nellist**  
**Planning Design Practice**  
**4 Woburn House**  
**Vernon Gate**  
**Derby**  
**DE1 1UL**

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR SCALE TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF THREE DWELLINGS ON LAND ADJACENT TO HILL VIEW CHAPEL LANE BARROW ON TRENT DERBY**

**Ward:** **ASTON**

**Valid Date:** **06/03/2014**

**Reason for committee determination**

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

**Site Description**

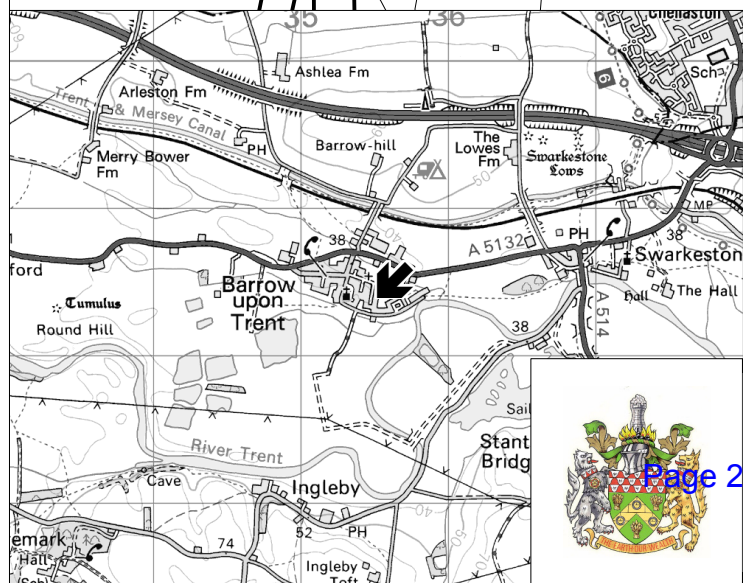
The site contains a bungalow with a large garden, located at the end of frontage development along Chapel Lane. It lies in the defined village confine and adjacent to the Barrow on Trent Conservation Area. The west boundary of the site is shared with Sunny Glen and Nos 1- 7 Club Lane. To the east is a field used as an animal sanctuary. Chapel Lane becomes unmade beyond the Club Lane junction.

The Environment Agency's Flood Risk Map shows the site split between Zones 2 & 3. The 1 in 100 year flood line is set at 39.13m above Ordnance Datum (AOD). Site levels in the vicinity of the proposed dwellings ranges from about 39.3m – 39.6m AOD.

**Proposal**

The application is in outline and seeks to establish the scale of the development. It is accompanied by a layout plan showing two two-storey dwellings and a single storey unit all set to the rear of the existing bungalow.

**9/2014/0228 - Land adjacent to Hill View, Chapel Lane, Barrow on Trent, Derby DE73 7HE**



The application is accompanied by a Flood Risk Assessment (FRA) that recommends finished floor levels at approximately 500mm above existing ground level (i.e. 39.88 AOD). This equates to a level 750mm above the 1 in 100 year flood level and 590mm above the 1 in 200 year flood level. The FRA acknowledges that in extreme flood conditions dry access along Club Lane would not be available and recommends a flood warning and evacuation plan.

Although access is reserved the indicative layout suggests that it would likely run parallel with and close to the west boundary.

### **Applicants' supporting information**

The supporting statement includes the following points:

- The proposal is in accord with local and national policies for housing. In particular it is within the defined Local Plan village confine and outside the conservation area.
- The layout demonstrates that the development would meet the required standards to protect the amenities of neighbours.
- The lane is capable of serving the development.
- The development would be in keeping with the scale and character of the settlement.
- The FRA shows that the dwellings would be set above the 1 in 200 year flood level, the existing Flood Zone 3 land would be kept free from development and a suitable sustainable drainage system deployed would ensure that runoff is kept to greenfield levels.
- A Flood Warning and Evacuation Plan would be put in place - peak floods in this locality can be predicted and warnings issued several days before the event. This is common with other properties in the locality, in particular those located on the 'dry island' in the village. It is therefore reasonable for the new development to be treated similarly.
- The sequential test for flood risk has been carried out, identifying that there are no reasonably available sites at lower risk of flooding in the village.

### **Planning History**

None relevant.

### **Responses to Consultations**

Severn Trent Water Ltd and the Highway Authority have no objection subject to conditions.

The Contaminated Land Officer has no objection.

The Environment Agency, whilst in initially raising objection on dry access grounds has considered further evidence, in particular a revised Flood Risk Assessment incorporates a letter from the Emergency Planner at Derbyshire County Council which concludes that *"residents would, if in receipt of flood alerts and warnings, have sufficient time to evacuate to other locations. Those not doing so, run the risk of being isolated by flood water and should develop their personnel flood plan accordingly."*

Whilst the Agency remains highly concerned that safe access and egress from the proposed development to land completely outside of the floodplain is not available, it acknowledges that responsibility for the provision of emergency planning advice rests with Derbyshire County Council. As such no objection is raised subject to conditions incorporated in the recommendation below.

## **Responses to Publicity**

The Parish Council objects for the following reasons:

- a) The village already has significant flooding problems and the development would increase risk and run off for the rest of the village.
- b) There would be overlooking and overshadowing to neighbours.
- c) The narrow unmade road is unsuitable and there is no footway along the road, which is popular with walkers.
- d) The development would be intense and not in keeping with the rural parish.

An adjoining neighbour objects as follows:

- a) Chapel Lane is not made up and there is concern over access and impact on the existing highway network. There no pedestrian footway and Chapel Lane may be unsuitable for emergency vehicles.
- b) There is no safe dry access in the event of flood.
- c) Development of the site could exacerbate flood risk to existing properties. Flooding and very wet ground can be observed in times of flood. Local properties have been inundated or close to inundation in the recent past.
- d) Because of the flooding issue the proposal is contrary to paragraphs 99 & 100 of the NPPF which seek to steer development to areas least affected by flooding.
- e) The village has few services and facilities, in particular with regard to public transport. This is therefore not a sustainable location, contrary to NPPF para 17. This is the largest development in the village for many years.
- f) The proximity of the access to neighbours' boundaries would cause disturbance to existing residents.
- g) Because of the need to elevate the floor levels of the new houses, and lower land levels at the boundaries the impact on neighbouring dwellings would cause unacceptable overlooking.
- h) The development would appear cramped and out of character with the area, contrary to Policy H11 and paragraphs 17, 58 and 64 of the NPPF, which seek to encourage high quality design, reflecting the identity of local surroundings and taking the opportunities available to improve the character and quality of the area.
- i) The unmade highway serving the site is part of the historic character the area and surfacing works required to serve the development would harm the historic fabric.
- j) No protected species survey has been submitted but there are known to be badgers in the area.
- k) There is no available sewer and septic tanks could cause drainage problems.

## **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Saved Housing Policies 5 & 11 (and its associated supplementary planning guidance), Saved Environment Policies 9, 11 & 12, Transport Policies 6 & 7.

## **Emerging Local Plan Policies**

Pre-Submission Local Plan 2014: Policy S1 (Sustainable Growth Strategy), Policy S2 (Presumption in Favour of Sustainable Development), Policy S4 (Housing Strategy) Policy S6 (Sustainable Access), Policy H1 (Settlement Hierarchy), Policy BNE1 (Design Excellence) Policy BNE2 (Heritage Assets), BNE3 (Ecology) Policy INF2 (Sustainable Transport), SD2 (flood Risk).

## **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)  
Paras 11-14 (The presumption in favour of sustainable development)  
Para 17 (Core principles)  
Chapter 6 (Delivering a wide choice of quality homes)  
Chapter 7 (Requiring good design)  
Chapter 10 (Flooding)  
Chapter 11 (Natural environment)  
Chapter 12 (Historic Environments)  
Paras 186 & 187 (Decision-taking)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations)

NPPG ID26 (Design), 21a (Conditions), 23b (Obligations), 18a (Historic environment)  
ID7 (Flood Risk) ID8 (Natural environment).

## **Planning Considerations**

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

- The principle.
- Flood risk.
- Impact on the character and setting of the conservation area.
- Highway safety and transport.
- Residential amenity.
- Biodiversity

## **Planning Assessment**

### The principle

Paragraph 14 of the National Planning Policy Framework (NPPF) states *“at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.”* The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without

*delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in this NPPF indicate development should be restricted.”*

Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework.

In terms of the current Local Plan, Saved Housing Policy 5 defines a village confine within which the site lies. As such residential development is supported by the development plan. The emerging Local Plan Policy H1 identifies Barrow on Trent as a ‘Rural Village’ and favours development of limited infill and conversion of existing buildings and local scale affordable, and cross subsidy exception sites of up to 12 on appropriate sites and according to individual settlement circumstance. Although the emerging policy does not favour the particular form of development proposed, the plan does not yet carry a great deal of weight. In view of the limited scale of the proposed development, Saved Housing Policy 5 remains consistent with the NPPF, which acknowledges that where there are groups of smaller settlements, development in one village may support services in villages nearby. As such the proposal represents sustainable development that is acceptable in principle.

#### Flood risk

The submitted flood risk demonstrates that the dwellings would not be at unacceptable risk in extreme flood events. However Chapel Lane would be flooded, precluding dry access and egress. The applicant has addressed this issue by proposing a Flood Warning and Evacuation Plan. The County Council’s Emergency Planning Manager has confirmed that the proposed measures are suitable and sufficient for this location. On this basis the Environment Agency does not object to the proposal subject to conditional safeguards as recommended below. Concern has also been expressed about additional hard surfacing and therefore run-off exacerbating existing flooding issues. The FRA recommends a SUDs solution for the site that would ensure run-off is restricted to greenfield flows (as existing). Such a scheme would be secured by condition before any work commences.

#### Impact on the character and setting of the conservation area

The proposal lies adjacent to the conservation area. The indicative plan shows that the site could accommodate buildings with narrow plan forms, which is a locally distinctive characteristic. The indicative layout is not out of keeping with development along Club Lane, this in itself comprising mainly modern housing influenced by traditional housing. There is no proposal or highway requirement to make alterations to Chapel Lane. Subject to detailed design, the proposed dwellings would preserve the setting of the conservation area, in accordance with Saved Environment Policy 12 and Chapter 12 of the NPPF and its associated guidance.

#### Highway safety and transport

On the advice of the Highway Authority there would be no adverse safety issues arising, subject to repositioning of the access along the site frontage in order to maximise visibility. The garaging and parking proposed is appropriate to the scale and nature of



the development. As such the proposal is in accord with Local Plan Saved Transport Policies 6 & 7, which remain consistent with the NPPF.

### Residential amenity

Although the application is in outline the indicative layout demonstrates that minimum separation distances, set out in the supplementary planning guidance of new housing, would be comfortably met. However the requirement to establish floor levels to avoid flooding the matter of overlooking to neighbours would need particularly careful attention at reserved matters stage to ensure acceptable impact. Nevertheless there is no evidence that satisfactory impacts could not be achieved. As such the development accords, in principle, with Saved Housing Policy 11. The development would satisfy the criteria of the policy to provide reasonable living conditions throughout the development.

### Biodiversity

Paragraph 1118 of the NPPF aims to conserve and enhance biodiversity. Although general reference was made to the presence of badgers on the site there is no evidence from site inspection, of any setts or foraging activity. Nevertheless, as a precautionary approach, in order to ensure that no protected species would be adversely affected, appropriate conditions would secure an appropriate pre-development survey and habitat enhancement through new planting. This would be in accord with Local Plan Saved Environment Policies 9 & 11.

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

## **Recommendation**

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

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

2. Approval of the details of the layout, appearance, access and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the



completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area and to provide biodiversity enhancement.

4. Finished ground floor levels shall be set no lower than 39.88 metres above Ordnance Datum (mAOD) to accord with the recommendations of the approved Flood Risk Assessment, Version 2.0 by Julia Williams dated July 2014.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

5. The dwellings shall be located outside of the modelled 1 in 200 year floodplain of the River Trent as defined by the flood outline included in Appendix E of the approved Flood Risk Assessment, Version 2.0 by Julia Williams dated July 2014.

Reason: To safeguard the location of the dwellings to land outside of the modelled 1 in 200 year floodplain.

6. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

" The utilisation of holding sustainable drainage techniques;

" The limitation of surface water run-off to existing greenfield rates;

" The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and

" Responsibility for the future maintenance of drainage features.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.

7. The Flood Warning & Evacuation Plan (appendix F to the submitted Flood Risk Assessment Version 2.0) shall be implemented on first occupation of the dwelling and shall be retained in accordance with that document thereafter.

Reason: To enable occupants to vacate the site before safe access is precluded by flood.

8. Further to Condition 2 above, prior to the first occupation of the development, the access to the site shall be relocated to the east of the existing access and shall be provided with 2m x 12m visibility sightlines in each direction, the area forward of which shall be cleared and maintained thereafter clear of any obstruction exceeding 1m (600mm in the case of vegetation) in height relative to road level.

Reason: In the interests of highway safety.

9. The access shall have a minimum width of 4.8m and be provided with 2m x 2m x 45 degree pedestrian intervisibility splays the area forward of which shall be

cleared and thereafter maintained free of any obstruction exceeding 600mm in height relative to road level.

Reason: In the interests of highway safety.

10. Prior to the first occupation of the development, the existing access shall be permanently stopped up in accordance with a scheme that shall have previously been submitted to and approved in writing by the local planning authority.

Reason: In the interests of highway safety.

11. The details required pursuant to Condition 2 shall include a bin store, situated in close proximity to the highway. The bin store shall be provided prior to the first occupation the development and shall be retained thereafter free from any impediment to its designated use.

Reason: To avoid the need to place bins in the highway on collection days, In the interests of highway safety.

12. Prior to the first occupation of the development, space shall be provided within the site curtilage for parking and turning of two vehicles for each of the new and existing dwellings. Each parking space shall measure at least 2.4m x 4.8m (3m x 6m in the case of any space located within a garage), and unless as may otherwise be agreed pursuant Condition 2, any shared turning facilities shall measure 9m x 9m. The approved parking and turning space shall thereafter be retained available for use as such.

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

13. No work shall take place on the site until details of a scheme for the disposal of 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 pollution control.

14. Before development begins a Phase 1 Habitat Survey shall be submitted to and approved in writing by the local planning authority and any mitigation or protection measures shall be implemented in accordance with a scheme that shall also have been previously agreed in writing with the local planning authority before development begins.

Reason: To enable any unidentified ecological interest to be identified and protected proportionately.

#### Informatives:

When seeking to discharge the above planning conditions, please note that the Environment Agency does not consider the use of oversized pipes or box culverts to be sustainable drainage. Should infiltration not be feasible at the site, alternative above ground sustainable drainage should be used.

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

**Item**            **1.4**

**Reg. No.**        **9/2014/0238/NO**

**Applicant:**  
**Mr & Mrs W. Brown**  
**Old Rectory**  
**Church Road**  
**Egginton**  
**Derby**  
**DE65 6HP**

**Agent:**  
**Mr Eric Lee**  
**Eric Lee Architectural Services**  
**The Stables**  
**Robinson Hill**  
**Melbourne**  
**Derbyshire**  
**DE73 8DJ**

**Proposal:**        **ERECTION OF BUILDING TO PROVIDE CARERS  
ACCOMMODATION AND EXTENSION OF EXISTING  
CAR PORT TO PROVIDE SECURE STORE AT OLD  
RECTORY CHURCH ROAD EGGINTON DERBY**

**Ward:**            **ETWALL**

**Valid Date:**     **01/04/2014**

**Reason for committee determination**

The application is reported to Committee as the applicant is Councillor Brown.

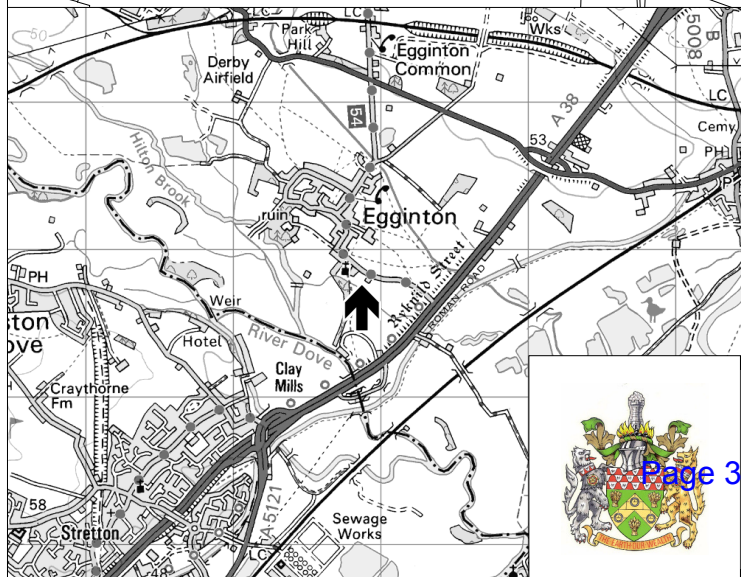
**Site Description**

The application site is an area of the substantial grounds of The Old Rectory, also referred to as Benby House Farmhouse, a Grade II listed building located to the south of the church in the open countryside and to the south of a group of modern dwellings erected adjacent. The site lies within an area of flood risk and whilst the site is within Flood Zone 3 as identified on the Environment Agency Flood Maps, the site, as well as the surrounding properties, benefit from recently constructed flood defence improvements.

**Proposal**

The application is in full and is to erect a single storey building to create accommodation for a carer for elderly residents of the main property who reside in converted buildings adjacent to the main dwelling. The proposal would create a hallway, living/dining/kitchen space, bathroom, utility and bedroom. The design has developed following discussions with the applicant and their agent and has evolved into what appears as a modest ancillary building. In order to overcome concerns over flooding the floor level is raised with the building approached by steps and provided with a raised seating area. An

# 9/2014/0238 - Old Rectory, Church Road, Egginton, Derby DE65 6HP



addition to the existing cart port to provide secure storage and loft space is also proposed.

### **Applicants' supporting information**

The application is accompanied by a Flood Risk Assessment (FRA) which recommends the floor level be set at 45.09m AOD and provided with rapid drying, flood resilient materials in case the flood defences are overtopped. It is also recommended that the occupier of the property sign up to the EA's Flood Warning Service.

### **Planning History**

None particularly relevant.

### **Responses to Consultations**

County Archaeologist states that the land subject to the application was open field therefore raises no objection to the proposal.

Environmental Health raises no objection.

Severn Trent Water has no objection to the proposal.

The Environment Agency raises no objection to the proposal subject to the recommendations in the FRA being incorporated.

Egginton Parish Council raises no objection.

### **Responses to Publicity**

Commenting on the amended plans one letter of objection received states that the changes, because of flooding, are not necessary and that this will invade their privacy as it is too close to their property.

### **Development Plan Policies**

The relevant policies are:

Local Plan: Housing Policy 11, Environment Policies 1, 2 and 14; Transport Policy 6.

Supplementary Planning Guidance: Housing Design & Layout

### **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Chapter 4 (Promoting sustainable transport)

Chapter 6 (Delivering a wide choice of high quality homes)

Chapter 7 (Requiring good design)

Chapter 10 (Meeting the challenge of climate change, flooding etc.)  
Chapter 12 (Conserving and enhancing the historic environment)  
Paras 186 & 187 (Decision-taking)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations)

Annex1 (Implementation)

The National Planning Practice Guidance (NPPG)

## **Planning Considerations**

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

- Flood risk,
- Impact on the amenity of residents, and
- Impact on the character and appearance of the area and setting of the listed building.

## **Planning Assessment**

### Flood risk

The application site lies in an area that is designated as Flood Zone 3 as shown on the Environment Agency flood maps, but benefits from the recently improved flood defences. It is considered that the site is sequentially preferable in flood risk terms as it needs to be near to the main house as it is ancillary to it and other areas of the site are at the same risk of flooding. However, there is still a requirement to consider flood risk and the NPPF at Para. 100 states that *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.”* Local Plan Policy EV2 states that, amongst other things, new development must be protected from flooding. It is noted that the proposed ancillary accommodation includes a FRA which recommends a raised floor level, the provision of flood resilience and resistant techniques, and signing up the EA’s early warning system and this approach has been accepted by the Environment Agency who raise no objection to the proposal. With this in mind it is considered that subject to the imposition of a suitably worded condition the proposal is a suitable conversion and would be adequately protected from the risk of flooding.

### Impact on the amenity of residents

One of the core principles of the NPPF as set out in Para. 17, is to *“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”*. The requirements of Local Plan Housing Policy 11 is relevant as it echoes the NPPF and it seeks to ensure that new housing is of a standard that does not affect, amongst other things, the residential amenity of neighbours and is of a functional layout. To assist in assessing these issues the Housing Design and Layout SPG has been adopted by the Council and this requires minimum separation distances between habitable rooms and to ensure that private amenity space is not affected by new housing in a manner that would be unduly detrimental to the occupation of the adjacent dwelling.



It is noted that an objection has been received from occupiers of the property to the rear, however, it is considered that the proposal would not have any undue adverse impact on the occupiers of that or other properties and there would be trees screening the modest building. The comments contained in the letter of objection are noted, however, it is considered that notwithstanding the points raised the proposal would ensure that the occupiers of neighbouring property are not unduly affected by either the car port extension or the ancillary accommodation.

#### Impact on the character and appearance of the area and setting of the listed building.

The relevant adopted and emerging development plan policy and statutory tests require development within the curtilage of a listed building to be measured in terms of the impact it would be likely to have. As such, where determined harmful to the character and appearance of the heritage asset permission would not normally be allowed. In this case the revised scheme would mean the buildings would be located so that they would not affect views of the main house when approaching up the driveway and would be in an area which provides trees as a backdrop. The design has been amended to be very subservient and reflects architectural elements of the main property whilst not competing with it. The proposed alterations to the car port are relatively modest and also fully respect the design and detailing of the existing. It is not considered that the proposed developments would have any adverse impact and as a consequence they are therefore considered acceptable in those terms and compliant with national and local planning policies.

#### Other matters

Whilst the proposal would be located close to trees they would not have any significant impact on them. As the accommodation is for carers for occupiers of part of the property the principle is considered appropriate and the occupation of it can be controlled by a suitably worded condition. Adequate off-street parking is provided within the grounds and this will ensure that no adverse impacts on highway safety will ensue.

#### Conclusion

The proposal represents an appropriate form of development that would be acceptable in terms of design and impact on the listed building, impact on neighbours and flood risk and as such is considered to be acceptable.

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

#### **Recommendation**

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

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

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

2. This permission relates to the plans validated by the Local Planning Authority on 1st April 2014, as amended by the revised drawings received on 7th July 2014, and any variation to the approved drawings may need the approval of the Local Planning Authority.

Reason: For the avoidance of doubt as to what is approved.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the ancillary accommodation hereby permitted shall be extended or altered externally, be provided with new windows or doors, have its roof enlarged or altered, be provided with any porches, incidental buildings, structures or enclosure, additional hard surface, or be painted externally.

Reason: To protect the historic environment.

4. The living accommodation hereby permitted shall be occupied solely by members of the household of The Old Rectory or by domestic staff, and shall not be severed from the main house as a separate and unconnected dwelling.

Reason: The use of the development for any purpose other than one that is ancillary to the dwelling would result in unacceptable impacts on the amenities of the area.

5. Finished ground floor levels of the carer's accommodation shall be set a minimum of 45.90 metres above Ordnance Datum (mAOD) in accordance with Sections 4.1, 4.4 and 7.0 of the approved Flood Risk Assessment.

Reason: To reduce the risk of flooding to the development and its future occupants.

6. Development shall not commence on the construction of the carer's accommodation until a Water Entry Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Water Entry Strategy shall be in accordance with the recommendations in Sections 4.4 and 7.0 of the approved Flood Risk Assessment and shall demonstrate that flood resilient and resistant measures will be incorporated in the construction of the development.

Reason: To minimise damage to the development in the event of flooding.

7. Notwithstanding the submitted details, further details of (a) the doors to car port extension, (b) the windows and doors, (c) all stone detailing, (d) rainwater goods, (e) steps/patio area hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. These elements shall be provided in accordance with the approved details.

Reason: In the interests of visual amenity.

8. Development shall not commence on the construction of the carer's accommodation until samples of the proposed materials to be used in the external construction of the development have been submitted to, and approved in writing by, the local planning authority and the development shall only be undertaken in accordance with the materials so approved and shall be retained as such thereafter.



Reason: To ensure a satisfactory standard of external appearance.

9. The external wall and roof materials used in the extension to the car port shall be of the same type, texture and colour as those used in the existing building unless otherwise agreed in writing with the local planning authority beforehand and shall be retained as such thereafter.

Reason: To ensure a satisfactory standard of external appearance.

#### Informatives:

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

The applicant is advised that following consultation with the Environment Agency they have advised that when looking to comply with the condition 5, please note that the internal floor level of the carers accommodation will need to be set out using Ordnance Survey GPS methods, and not a local datum, as used for the topographic survey. However, they recommend the local datum (car port base) is also tied in to Ordnance Survey GPS during the works (using a suitable marker stud) such that any future survey of the site can be tied in to Ordnance Survey and not to a local datum.

The applicant is advised that following consultation with the Environment Agency they have advised that when looking to comply with the condition 6, when seeking to discharge the above planning condition, the development should use low permeability materials up to 0.3 metres above internal ground floor levels and electrical sockets are raised to at least 1.2 metres above internal ground floor level with wiring coming down from the 1st floor level to switches and sockets.

The applicant is advised that following consultation with the Environment Agency they have advised that the occupants should register with their free Flood Warning Service by contacting Floodline on 0845 9881188. The advance warning of a flood provides valuable time to take action and be prepared. Further information on preparing a Flood Plan and ways to limit the damage caused by flooding is available by referring to the Flood Warning and Evacuation Plan in Appendix D of the submitted Flood Risk Assessment or on their website at:

<https://www.gov.uk/government/organisations/environment-agency>

**Item**            1.5

**Reg. No.**        9/2014/0709/FH

**Applicant:**  
**Mr Philip Heath**  
**43-45 Blanch Croft**  
**Melbourne**  
**Derby**  
**DE73 8GG**

**Agent:**  
**Mr Philip Heath**  
**43-45 Blanch Croft**  
**Melbourne**  
**Derby**  
**DE73 8GG**

**Proposal:**        **INSTALLATION OF SMALL DOMESTIC PIZZA OVEN &  
FLUE AND RETENTION OF SHED, SMALL METAL GATE  
& SIDE PANEL, GREENHOUSE, HEN HOUSE, HEN RUN,  
TRELLIS & REDUCTION/REMOVAL OF BOUNDARY  
FENCES AT 43-45 BLANCH CROFT MELBOURNE  
DERBY**

**Ward:**            **MELBOURNE**

**Valid Date:**     **23/07/2014**

**Reason for committee determination**

The applicant is a member of staff.

**Site Description**

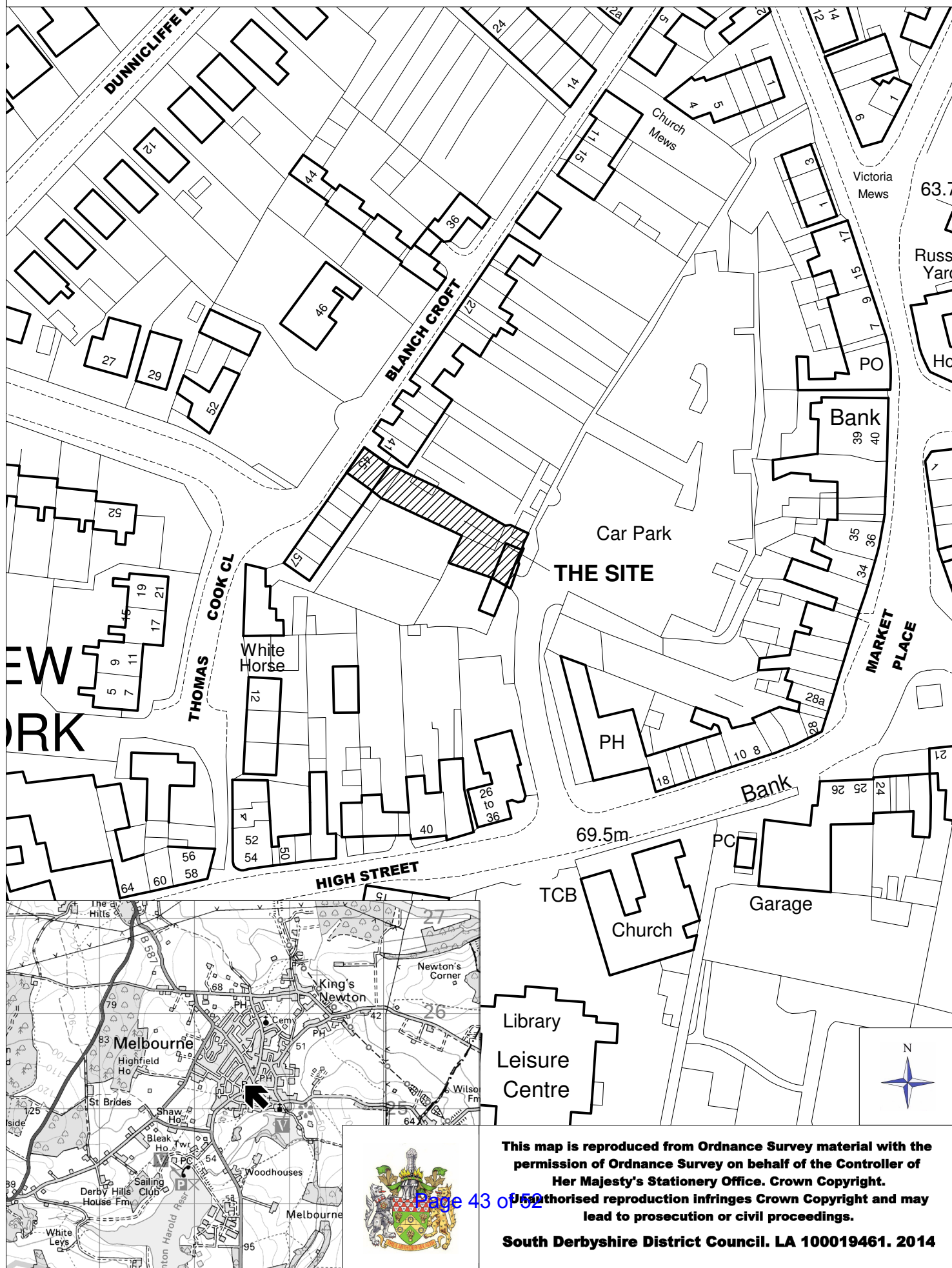
The application relates to various structures in the garden of the applicant's house which lies in Melbourne Conservation Area. The house (which includes the garden as curtilage) is a part of a grade II listed terrace which dates from 1795. The gardens to the terrace end in a consistent line parallel to the building except for numbers 43 and 45 (now one house) where the garden extends down to an outhouse.

**Proposal**

The various structures the subject of this application are all located in the rear garden and have been added on a piecemeal basis over a number of years. The pizza oven and flue are the only items that are yet to be constructed and would be installed in an outbuilding close to the main house.

**Applicants' supporting information**

Item B: Shed: Dimensions: 1.9m x 2.4m x 2.9m. This was purchased from the Midland Railway Company about a century ago by the applicant's great grandfather and is therefore part of Melbourne history as well as the applicant's



own family history. It has been in the curtilage of the property since 2002, when the applicant restored it for its own sake as a piece of local heritage.

Item C: Fence: This fence was formerly a plain post and rail fence. It has been reduced in height by about 250mm over a length of about six metres and added screening and planting to make it less conspicuous and make the gardens feel more open and green.

Item D: Removal of fence: The fence dividing these properties was a mixture of post and rail and solid lapped fencing. As far as the applicant knows it was never authorised and was built by a previous owner. It was removed some time ago by mutual agreement between neighbours save for four posts at the north west end which were reduced in height with lightweight canework subsequently attached to support honeysuckles. This was done to enhance the feeling of openness across the gardens of the row, in line with the general preference of residents of the row at that time.

Item E: Hen Run and subsequent raising in height: Hens have been kept at the property since about 2007. Initially they were in a stationary ark with some makeshift wire-mesh fencing to form a small enclosure. About five years ago the ark was replaced with a small proprietary henhouse and altered the enclosing fence around the same time, contemporaneous with moving the greenhouse. The enclosing fence, where it is not formed by the pre-existing boundary of the property, is about 12 metres long and was originally about 1.5 metres high. It comprises 75mm square wooden posts with open wire mesh in 50mm squares. A small part is clad with willow screening. This year, a five metre run of the fence around the hen enclosure has been increased by about 0.6 metre, to keep in some bigger hens which were capable of flying out. There is a distinction because the original fence is over four years old and therefore immune from enforcement, while the addition is not.

Item F: Hen House: Dimensions: 1m x 1.25m x 0.9m. This is kept dry by being stood off the ground on posts about 0.5m high, which gives the birds a dry area underneath.

Item G: Greenhouse: Dimensions: 1.8m x 2.2m x 2m. It is thought to have been originally erected over 20 years ago and never had planning permission, but has become immune from enforcement through being over four years old. The site later became part of the garden of no 45 Blanch Croft by purchase and the greenhouse was on the property when the applicant purchased it. It was then moved a few yards, about five years ago, to accommodate changes to the garden layout, thus making it in theory a "new structure" once again subject to planning permission/enforcement during a four year period. It has been moved for more than four years and is thus once again exempt from enforcement, but is included in this application to address the planning breach committed by the applicant in moving it.

Item H: Gate and side panel: About 1m high. These were a bespoke commission from a Ticknall artist blacksmith in 2012, as a piece of garden art from a local craftsman. These are regarded as chattels, being something that we would take away with the applicant were he to move house. They have little real function and are small and low, hardly visible outside of the garden. They are included in the

present application because they fall within the definition of a means of enclosure within the grounds of a listed building.

Item I: Trellis: Dimensions: 2.6m wide x 3m high. This is a home-made support for sweet peas or other climbing plants, made of canes and rope. It also serves to screen and enclose some of the bins when covered with growth in the summer months. Although not expected to last more than four or five years, it is capable of being repaired indefinitely. It is included in the present application for avoidance of doubt, being a means of enclosure within the grounds of a listed building.

## **Planning History**

9/0898/0405 – demolition of outbuildings – listed building consent granted

9/2007/0566 – felling of tree – no objection

9/2007/1018 – replacement of external joinery and other alterations – listed building consent granted

9/2012/0969 – part use of outbuilding for produce stall – granted permission

## **Responses to Consultations**

The County Historic Building Architect states that he has no concern over the impact of the development on the significance and special historic character of the property and that planning permission should be granted.

Melbourne Civic Society states that most of the works appear to be permitted development and to the extent that they require planning permission no objection is raised given the lack of impact on the character of the listed building and the conservation area where the effects are either minimal or positive and are supported.

The Environmental Health Manager considers that the pizza oven could generate smoke and odours which could impact significantly upon neighbouring residential amenity. However, his concerns would be addressed if the use of the device were restricted to domestic use only therefore posing no tangible increase in impact over a barbeque, chiminea or similar appliance which one would expect to see in a typical residential garden (and for which planning permission would not be required). He adds that should excessive use result in unacceptable levels of smoke and odour, statutory controls are available to the Environmental Health Department within the Local Authority in the form of statutory abatement notices issued under the Environmental Protection Act 1990. He states that he therefore has no objection to the proposal in principle providing appropriate conditions are included in any permission if granted.

## **Responses to Publicity**

Melbourne Parish Council objects to the installation of the pizza oven because the applicant runs a catering business from the premises and concerns are expressed that the pizza oven will be used in connection with the business and that it may attract additional visitors to the property. There is no objection to the other items in the application.

There have been no other comments from nearby households.

## **Development Plan Policies**

The relevant policies are:  
Local Plan: Environment Policies 12 and 13.

## **Emerging Local Plan**

Policy BNE2

## **National Guidance**

NPPF: Paragraph 17, Chapter 11.  
PPG: ID:18a, Para 008

## **Planning Considerations**

The main issues central to the determination of this application are the impact on the character and appearance of the conservation area and the setting of the listed building. There is also a minor consideration regarding the possible amenity issue surrounding the installation of the pizza oven.

## **Planning Assessment**

The relevant guidance, development and emerging development plan policy, and statutory tests require development within the curtilage of a listed building and a conservation area to be measured in terms of the impact it would be likely to have. As such, where determined harmful to the character and appearance of the heritage asset(s) permission would not normally be allowed. In this case all of the existing and proposed developments are very minor and on the advice of the County specialist have no adverse impact and are therefore considered acceptable. The minor issue regarding possible smoke/fume nuisance from the flue will be controlled by other legislation as advised by the Environmental Health Manager. In terms of impact on the appearance and integrity of the curtilage listed building, it would have minimal effect.

## **Recommendation**

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

1. The pizza oven and flue hereby permitted shall only be used for domestic purposes.

Reason: In the interests of the amenity of adjoining residents.

Informatives:

Emissions from the pizza oven are capable of control under the Environmental Protection Act.

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

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

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2014/0279	Kings Newton	Melbourne	Dismissed	Delegated
9/2014/0190	Etwall	Etwall	Dismissed	Delegated



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## Appeal Decision

Site visit made on 29 July 2014

**by Chris Hoult BA(Hons) BPhil MRTPI MIQ**

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

**Decision date: 8 August 2014**

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**Appeal Ref: APP/F1040/D/14/2219192**

**"The Old Barn", Trent Lane, Kings Newton, Melbourne, Derby DE73 8BT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr J Oxspring against the decision of South Derbyshire District Council.
  - The application Ref 9/2014/0279, dated 20 March 2014, was refused by notice dated 15 May 2014.
  - The development proposed is the erection of a detached building to serve as a double car port and store.
- 

### Decision

1. The appeal is dismissed.

### Main issues

2. The main issues are whether the proposal would: (a) preserve or enhance the setting of the Kings Newton Conservation Area (CA); and (b) preserve the setting of the listed Elms Farmhouse.

### Reasons

3. There are two separate statutory tests to apply – in respect of the effect on the setting of the CA and on the nearby Grade II listed farmhouse – but I consider that they overlap to a great degree and so I deal with them together, although I reach separate conclusions in relation to each. I have had regard to the special duty which is implicit in applying the tests.
4. The proposal relates a piece of land adjacent to Trent Lane as it begins its descent down the south bank of the River Trent and north of an access track as it swings round to the west of the lane and to the north of the main appeal dwelling. The evidence indicates that the Council has accepted that it lies within the curtilage to the property and, at the time of my visit, it was being used to park a van and for the storage of bins and building materials. The appeal property is a former outbuilding to Elms Farmhouse, which has a front elevation to the lane and which is prominent among a group of buildings arranged around an inner courtyard and having frontages to the lane and access track. The courtyard is glimpsed from the lane through an archway between the appeal property and the adjoining "The Gate House".
5. The Council's single reason for refusal is explained at great length in words which repeat the advice given by its Conservation and Heritage Officer. The

reference in it to continuous, conjoined or linear groups of buildings arranged in compact form and giving a strong sense of enclosure align with the impression I gained of the much of the frontage to Main Street. A reference from the CA Character Statement to long ranges of farm buildings that survive substantially unaltered creating linear, L and U shaped courtyards reflect the pattern of development along Main Street and around Elms Farmhouse. I note that the CA boundary is largely drawn tightly around groups of older buildings reflecting this pattern of development, on the south side of Main Street, at the junction of Main Street and Trent Lane and at the northern end of Trent Lane.

6. The appeal property appears to have formed part of the curtilage to the farmhouse when it was listed. It forms part of its setting and is within the CA on account of the extent to which it represents part of a traditional pattern of development, as a former farm building, arranged subserviently to the farmhouse around an inner courtyard, which the Council seeks to preserve. The farmhouse is of architectural interest. I therefore consider that it and the appeal property are heritage assets of significance.
7. For all that the Council draws my attention to the wider pattern of development in the village, I consider that the merits of the proposal turn on a fairly straightforward point. The proposal does not involve physical alteration to the grouping of buildings around the farmhouse but seeks to extend it across the access track. It is therefore necessary to assess whether the appeal property reads as part of this grouping and, if it does, whether it forms a distinctive edge to the CA which would be harmfully eroded by the siting of a further detached building slightly removed from it. The appeal site itself is outside the boundary of the CA but it undoubtedly forms part of its setting.
8. I have carefully read the appellant's assessment of the relationship of the appeal property to the farmhouse and of the proposal to its wider locality. I accept that the former outbuildings, all now converted to separate dwellings, are plainly subordinate to the farmhouse. However, I consider that they read as an integral part of a grouping together with it, which is clear when viewed from Trent Lane to the north. Although they display a multiplicity of roof slopes and ridge heights, that they are conjoined and consistent in the use of traditional materials gives the impression of a coherent whole and provides a distinctive edge to the built-up area of the village and, in turn, the CA. This is in spite of elements of modern detailing. This is reinforced by their elevation to the lane and by a continuous sequence of walled enclosures to gardens which wrap around the frontages to Trent Lane and the access track.
9. I accept that there are the remnants of a stone wall on the northern side of the access track and that there is a stone retaining wall to a secondary area of garden to the appeal property fronting the lane, which continues to the north of the access track. However, these do not detract from the sense gained, when viewing the run of dwellings and their gardens in this setting, of a distinct break between the built-up area of the village and open land to the north, founded on a traditional pattern of development. Against this background, a further sizeable detached outbuilding to the north of the access track which, however sympathetically designed, would impose itself on the setting by its physical presence, would significantly erode the coherence of the setting.
10. I accept that the site has something of a domestic character on account of its use for parking and storage but the Council's acceptance of its inclusion within

the property curtilage relates to matters of law rather than planning merits. As to the appellant's comment that the space "leaks away" to the north and west, the current uses are carried on in the open. They are a common feature of curtilage land around farm buildings not forming part of a more recognisably formal domestic garden. Far from providing a visual end stop or buttress to built development, the proposal would result in its encroachment beyond the clearly-defined boundary to the built-up area.

11. I have taken into account the setting of the lane further to the north, as it drops more steeply, and of the sporadic development along it. However, this does not read together with the village and its pattern of development.
12. Accordingly, I conclude that, even if capable of blending in sympathetically on account of its style and materials, primarily because of its siting, the proposal would fail to preserve the setting of the CA. Given that it would appear as a discordant feature when viewed from Trent Lane in association with the appeal property and the farmhouse read together, I conclude that it would fail to preserve the setting of the listed farmhouse. As such, it would conflict with saved policies EV12 and EV13 of the South Derbyshire Local Plan.
13. I have had regard to the guidance in paragraph 131 of the National Planning Policy Framework (NPPF). I consider that, while the proposal would represent a viable use for the site, that would be inconsistent with the conservation of the heritage assets. The harm caused to them would be less than substantial but no public benefits that might outweigh it have been identified. I note the appellant's references to "substantial harm" in the Government's Planning Practice Guidance. The extract quoted aims to clarify the use of the term in paragraphs 132 and 133 of the NPPF but paragraph 134 invites the possibility of harm being less than substantial and that is how I have concluded.

## **Conclusions**

14. For these reasons, I conclude that the appeal should be dismissed.

*C M Hoult*

INSPECTOR

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# Appeal Decision

Site visit made on 18 July 2014

**by N McGurk BSc(Hons) MCD MBA MRTPI**

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

**Decision date: 12 August 2014**

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## **Appeal Ref: APP/F1040/A/14/2218226**

### **17 Windmill Road, Etwall, Derby, Derbyshire, DE65 6JX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Robert Redfern against the decision of South Derbyshire District Council.
  - The application Ref 9/2014/0190, dated 24 February 2014, was approved on 22 April 2014 and planning permission was granted subject to conditions.
  - The development permitted is the erection of extensions and the creation of a vehicular access at 17 Windmill Road, Etwall, Derby.
  - The condition in dispute is No 7 which states that: Before the first occupation of the extension hereby permitted the new bedroom window in the first floor west elevation shall be fitted with obscured glazing, up to a height of 1.6m, relative to the floor level of the room which it serves and shall be permanently retained in that condition thereafter.
  - The reason given for the condition is: To avoid overlooking of the adjoining property in the interest of protecting privacy.
- 

### **Decision**

1. The appeal is dismissed.

### **Procedural Matter**

2. During my site visit, I viewed the appeal property from a neighbouring dwelling, No 15 Windmill Road. In their representation, the occupiers of No 15 refer to a ground floor window in the side of the development the subject of this appeal, which faces directly towards the side of No 15. The window was pointed out and I observed that it was notably larger than that on the approved plans. The side window is not the subject of this appeal.

### **Main Issue**

3. The main issue in this case is whether the condition in dispute is reasonable and necessary in the interests of the living conditions of neighbours, with regards to privacy.

### **Reasons**

4. The appeal property is a two storey semi detached dwelling. It is located in a residential area comprising largely semi detached and terraced two storey dwellings. During my site visit, I observed that houses are set back behind front gardens, with long gardens to the rear. Together, these gardens, plentiful green

space and wide pavements afford the area a green, open and spacious character.

5. The appeal property faces towards Windmill Road. It is set at an angle, such that its rear elevation is situated closer to No 15 Windmill Road, an end terraced property, than its front elevation. During my site visit, I observed that the two storey element of the approved extension, which is under construction, is located in close proximity to the boundary with No 15.
6. During my site visit, I viewed the appeal property from inside No 15, as well as from the garden of that property. Whilst the lower windows of the approved extension to the appeal property did not appear overly intrusive, I observed that the position of the first floor window the subject of condition 7 would be such that it would have a clear and uninterrupted view into the conservatory of No 15.
7. The height, close proximity and dominant position of this first floor window would be such that, were it to be clear glazed, it would result in the overlooking of No 15's conservatory. I find that this would be to the severe detriment of the privacy of the occupiers of No 15. Whilst there is also some, lesser, degree of overlooking from the existing rear windows of No 17, these are located further away and/or in a less intrusive position than the window the subject of condition 7.
8. Taking all of the above into account, I find that the proposed variation would result in an unacceptable loss of privacy, to the harm of the living conditions of neighbours. This would be contrary to the Framework, to Local Plan<sup>1</sup> policy H13 and to the Council's Supplementary Planning Guidance<sup>2</sup>, which together amongst other things, require development to take account of residential amenity and to contribute to making places better for people.
9. Consequently, I find that condition 7 is reasonable and satisfies the six tests in paragraph 206 of the Framework.

### **Other Matters**

10. In support of his case, the appellant considers that it would be unusual for a bedroom window to have obscure glazing. However, I have found that condition 7 is reasonable and that its variation, as proposed, would lead to unacceptable harm. There is no substantive evidence before me to demonstrate that the use of obscure glazing would result in any harm.

### **Conclusion**

11. For the reasons given above, the appeal does not succeed.

*N McGurk*

INSPECTOR

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<sup>1</sup> South Derbyshire Local Plan (1998).

<sup>2</sup> Extending Your Home. Supplementary Planning Guidance (published 2004).