

19th February 2018

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 27 February 2018 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**
Councillor Mrs Brown (Chairman), Councillor Mrs Coe (Vice-Chairman) and
Councillors Coe, Ford, Mrs Hall, Harrison, Muller, Stanton and Watson

Labour Group
Councillors Dr Pearson, Shepherd, Southerd and Tilley

AGENDA

Open to Public and Press

- 1** Apologies and to note any substitutes appointed 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 STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 51**

Exclusion of the Public and Press:

- 5** The Chairman may therefore move:-
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 6** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 7** GLENCROFT DRIVE, STENSON FIELDS, DERBY, DE24 3LE

REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)

SECTION 1: Planning Applications
SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 2015 (as amended) responses to County Matters and strategic submissions to the Secretary of State.

Reference	Item	Place	Ward	Page
9/2017/1195	1.1	Lees	Etwall	5
9/2017/1196	1.2	Lees	Etwall	13
9/2017/1357	1.3	Willington	Willington & Findern	21
9/2017/1385	1.4	Woodville	Woodville	27
9/2018/0034	1.5	Etwall	Etwall	36
9/2018/0104	1.6	Melbourne	Melbourne	40
9/2017/1020	2.1	Overseal	Seales	44

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 Strategic Director's (Service Delivery) 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 Strategic Director (Service Delivery), 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

Ref. No. 9/2017/1195/FO

Applicant:
Mr Morley
c/o Agent

Agent:
Mr Dominic Cooney
Planning & Design Practice Ltd
3 Woburn House
Vernon Gate
Derby
DE1 1UL

Proposal: **OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR THE ERECTION OF ONE DWELLING AT LAND SOUTH OF GRANGE VIEW LONG LANE DALBURY LEES ASHBOURNE**

Ward: **Etwall**

Valid Date 22/11/2017

Reason for committee determination

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

Site Description

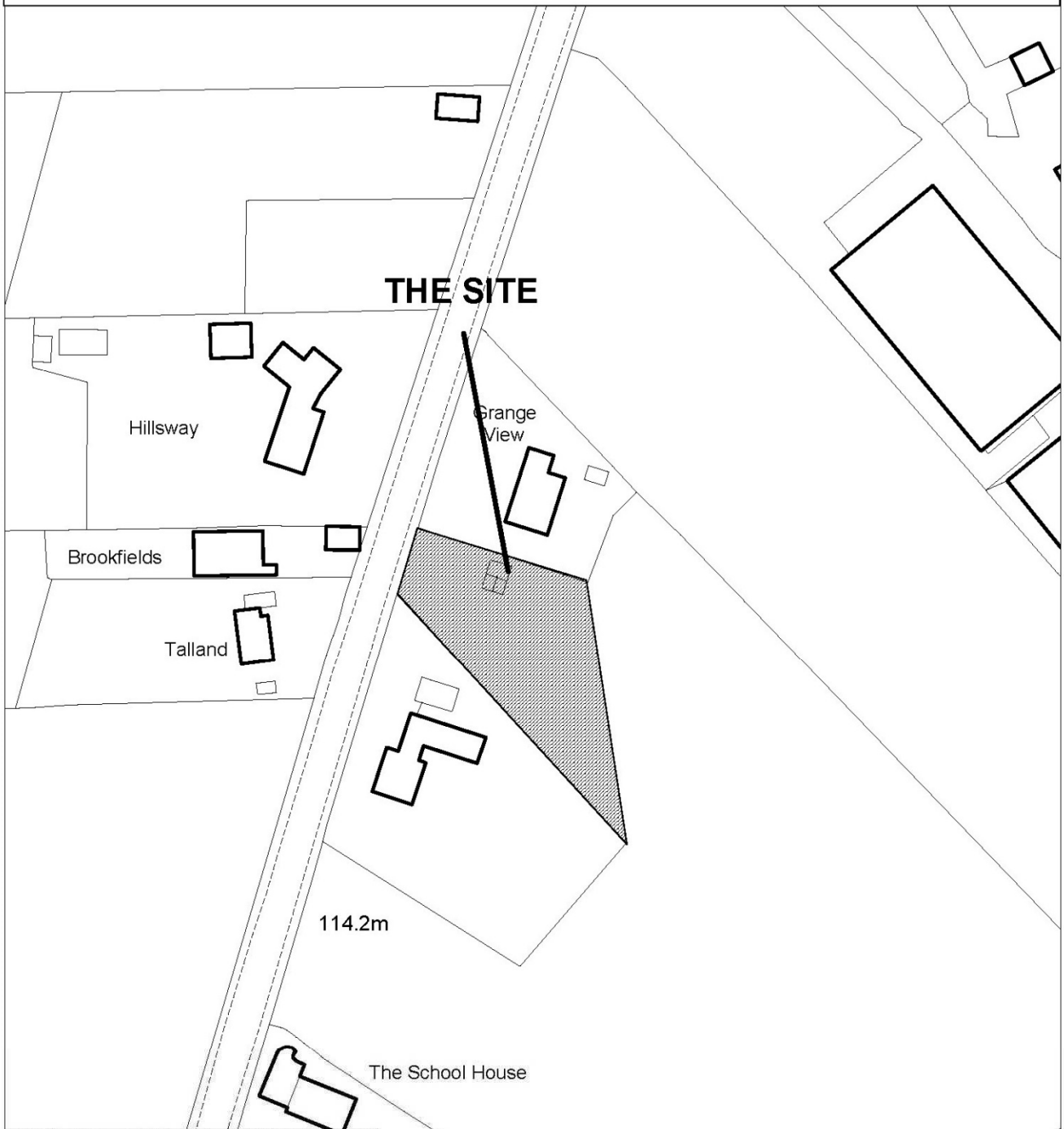
The site is part of a wider field which intrudes in between two bungalows on Main Road, south of Dalbury Lees. The bungalow known as Grange View is to the north and is sited on higher ground. There is a 2m hedge on this boundary and an Ash tree located to the north east within the garden area of this property. This Ash tree has been protected by TPO486. Another bungalow lies to the south east (Lees Bank), at a lower level than the site, and there are three further dwellings opposite – comprising a mixture of houses and bungalows. The rear of the site is open to the wider field it forms part of.

Proposal

Outline permission is sought for one dwelling with matters of access, layout, scale appearance and landscaping reserved for later consideration. The indicative plan shows a dwelling in line with the neighbouring properties and a central access with turning space and a detached garage.

Applicant's supporting information

The Planning Statement describes the site and the surrounding area identifying the village facilities of a pub and village green, with the nearest school 1.6km to the west and church 3km to the south. The character of the village is described as a small



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linear village with a mix of two-storey red brick dwellings and bungalows. It states that pre-application advice was given that the proposal constituted infill development facilitated by policy BNE5. It states that a single detached bungalow would be in-keeping with the character and would protect the privacy of neighbouring properties. The site is described as not visually prominent with a limited impact on the wider landscape character. Existing hedgerow would have to be removed but would be replaced in accordance with the required visibility splay. National and local planning policies are summarised and the report concludes that the proposal would constitute infilling in accordance with policy BNE5 and is similar to the infill dwelling permitted opposite.

Planning History

None relevant.

Responses to Consultations

The County Highway Authority has no objection to amended plans and recommends conditions in relation to the new access, closure of the existing access, parking and gates.

Responses to Publicity

Dalbury Lees Parish Council objects as the site is outside the settlement boundary, as per the Local Plan Part 2, and the pre-application advice given seeks to overrule the Part 2 Local Plan.

Two letters of objection have been received which are summarised below:-

- a) The site plan submitted with the application is out of date as the building works to Grange View are not shown;
- b) The proposed plan should show trees;
- c) The 'infill' development opposite was allowed for a farm labourer, however, it remained unoccupied for 5 years;
- d) The majority of traffic into the village is from Long Lane to the north as the road to the south is in a poor state of repair;
- e) There have been accidents at the junction with Long Lane and on it;
- f) Primary school children do not walk to school using footpath, they are driven;
- g) Where can farmers access the fields to the rear if these accesses are closed off; and
- h) The site is outside the village permitted area of building.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H1 (Settlement Hierarchy), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1

(Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport)

- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) BNE5 (Development in the Countryside) and BNE7 (Trees, Woodland and Hedgerows)

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

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

- The principle of development;
- Highway safety impacts;
- Character and residential amenity; and
- Impacts on hedgerow and the protected tree

Planning Assessment

Principle of Development

The site is outside the settlement boundary of Lees and is thus considered as countryside. Policy H1 of the Local Plan Part 1 (LP1) considers limited infill and conversions of existing buildings to be acceptable in rural areas (countryside) and policy BNE5 of the Local Plan Part 2 (LP2) allows for infilling if it is considered to be in keeping with the character of the locality and represents infilling of a small gap for not normally more than two dwellings, within small groups of housing. Another requirement of the policy is that development would not unduly impact on landscape character and quality, biodiversity, best and most versatile agricultural land and heritage assets.

The proposal is considered to constitute infilling of a small gap between dwellings in an area where the character is of linear development along the road frontage within relatively generous plots. This linear development becomes more fragmented heading north out of the village when compared to the more contiguous built up form within the settlement confines. It is largely for this reason that the confines were not extended under their review as part of preparing the LP2. The character at this point of the lane is also generally single storey in nature, or at least retiring into the slope of the land. Nonetheless, the site is not considered to represent an important gap between groups of housing due to its size and context. The garden would link with the rear boundaries of the existing properties either side and due to the land level dropping to the south east along with existing screening; any long distance views would be viewed in context with the existing built development and would not result

in an intrusion into the countryside. The principle of development is considered acceptable and accords with policies H1 and BNE5.

Highway safety impacts

Policy INF2 of the LP1 requires that appropriate provision is made for safe and convenient access to and within the development. Whilst access is a reserved matter, the Highways Authority requires an access which can improve on existing visibility. The revised indicative plan shows visibility sightlines of 2.4m x 35.8m to the north and 2.4m x 27.8m can be achieved. Whilst below the normally required 43m in both directions, the Highway Authority did not raise objection to the dwelling opposite and it is thus recognised an objection would be difficult to sustain. Therefore, provided that a 4m wide driveway can be provided for the first 5m into the site, they raise no objection here and consider the visibility to be acceptable subject to conditions in accordance with policy INF2 and paragraph 32 of the NPPF.

Character and residential amenity

Layout, scale, appearance and landscaping are all reserved matters. Whilst a detailed assessment would be carried out at that later stage, it is necessary to establish the scope for the proposal development to achieve a satisfactory form in all these respects. The Planning Statement mentions that a bungalow would be in keeping with the character of the area and would protect the amenities of neighbouring properties. On the basis that existing properties either side of the plot are single storey and land levels fall to the south, a single storey dwelling is considered to reflect the context of the site. Neighbouring properties are set away from the boundary and there would be sufficient room within the plot to accommodate the minimum separation distances. Grange View appears to have a dining room window on the southern elevation, but as a side elevation this is not strictly protected under the SPD. Nonetheless, a 12m separation to a blank elevation would normally be acceptable where protected, and there appears to be scope to achieve similar separation (noting that the site is at a lower level in any case). The effect on other dwellings is considered to be acceptable in principle, and any reserved matters application would have to accord with the Design Guide in any case – so not to have an adverse impact on the amenity of existing nearby occupiers in accordance with policy BNE1 of the LP1 and paragraph 17 of the NPPF.

Impacts on hedgerow and the protected tree

The Ash tree to the north at Grange View has been protected by TPO486. The reason for the order was that the tree has a high level of amenity in the streetscene and requires protection due to foreseeable impacts of this proposed development, along with future liveability concerns. However, any reserved matters application can be accompanied by an appropriate arboricultural survey to inform the layout and demonstrate adequate root protection in accordance with policy BNE7 of the LP2.

The loss of hedgerow is not ideal, but they are not considered to be so significant to warrant retention in situ. It could be translocated or replaced under the detail of reserved matters, and further compensatory planting can be secured by appropriate application of boundary treatments to the rear of the site. Access to the wider field

itself would still be achieved by an existing access to the north of Grange View and existing breaks in hedgerow between the fields.

Summary

The proposal is considered to qualify as infilling as it would fill a small gap within two existing properties. Whilst the existing fragmented ribbon would be consolidated to a degree, it is not considered substantial so to alter the character of the locality – subject to conditions. Adequate emerging visibility can be achieved to ensure a safe and suitable access whilst impacts on existing hedgerow, trees and neighbouring properties can be safeguarded and considered in detail under the reserved matters submission.

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 listed at condition 2 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and
(b) The development hereby permitted shall be commenced 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 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following reserved matters on an application made in that regard:
 - (a) access,
 - (b) appearance,
 - (c) landscaping,
 - (d) layout, and
 - (e) scale.

The matters of scale shall demonstrate that eaves and ridge heights are comparable to the adjoining properties to the north and south of the site.

Reason: This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. An Arboricultural Method Statement and Tree Protection Plan shall be submitted with the layout and scale reserved matters application(s). This shall

include details of excavation techniques to minimise disruption with the Root Protection Area of the protected tree, as well as explore the scope for translocation of the existing hedgerow to achieve access parameters set by condition 4. The development shall be carried out in conformity with the approved details throughout the course of the development, with any translocation works completed prior to the first occupation of the dwelling.

Reason: To safeguard the health of the nearby protected tree and to retain existing hedgerow wherever possible.

4. Before any works involving the construction of the dwelling commences, a new vehicular and pedestrian access shall be formed to the highway with a width of at least 4m, visibility sightlines extending from a point 2.4 metres back from the carriageway edge, measured along the centreline of the access, for a distance of 35 metres to the nearside carriageway edge to the north and 27 metres to the nearside carriageway edge to the south. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety.

5. Before any other operations are commenced (excluding creation of the new access, the subject of condition 4 above), the existing vehicular access to the highway shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as verge 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. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

Informatives:

- a. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email Highways.Hub@derbyshire.gov.uk or telephone 01629 533190.
- b. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
- c. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable

steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

- d. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at www.south-derbys.gov.uk) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
- Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
 - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).
- Further advice can be found online at www.south-derbys.gov.uk or by calling (01283) 228706.

Item 1.2

Ref. No. 9/2017/1196/FO

Applicant:
Mr Morley
c/o Agent

Agent:
Mr Dominic Cooney
Planning & Design Practice Ltd
3 Woburn House
Vernon Gate
Derby
DE1 1UL

Proposal: **OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR THE ERECTION OF TWO DWELLINGS AT LAND NORTH OF THE SCHOOL HOUSE UNNAMED ROAD FROM LONG LANE TO DALBURY HOLLOW DALBURY LEES ASHBOURNE**

Ward: **Etwall**

Valid Date 22/11/2017

Reason for committee determination

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

Site Description

The site is part of a wider field which intrudes in between properties on Main Road, north of Lees. The bungalow known as The School House is to the south and is sited on lower ground. There is a 1m hedge and fence on this boundary. The western section of the property has been sub-divided and is currently being renovated. A bungalow lies to the north (Lees Bank), at a higher level than the site, and there are open fields opposite. The rear of the site is open to the wider field it forms part of.

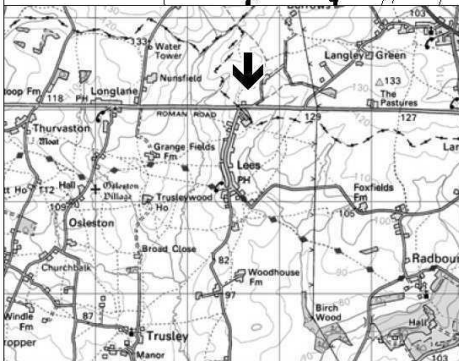
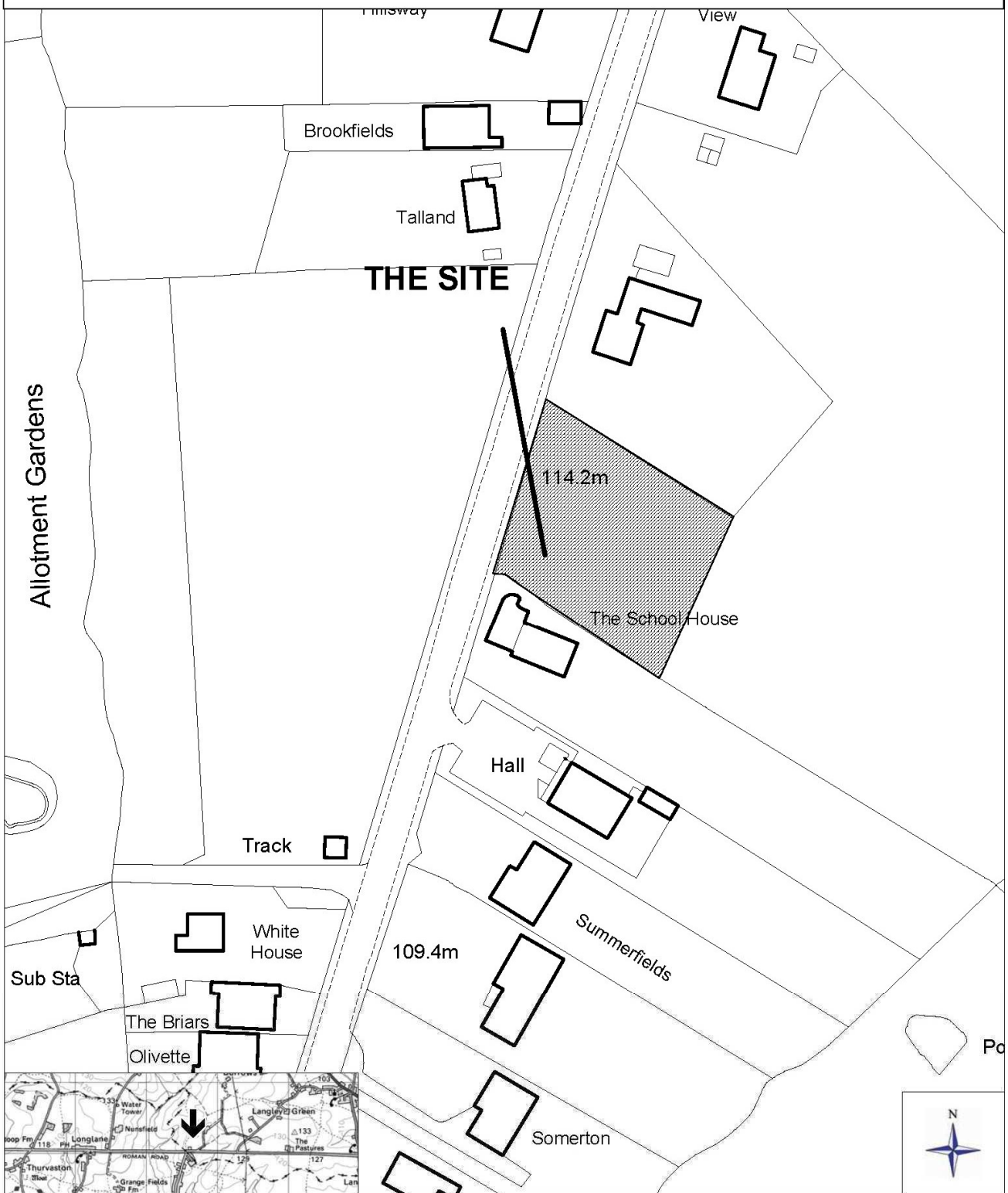
Proposal

Outline permission is sought for two dwellings with matters of access, layout, scale appearance and landscaping reserved for later consideration. The indicative plan shows dwellings in line with the neighbouring properties, individual accesses and parking/garaging space.

Applicants' supporting information

The Planning Statement describes the site and the surrounding area identifying the village facilities of a pub and village green, with the nearest school 1.6km to the west and church 3km to the south. The character of the village is described as a small linear village with a mix of two-storey red brick dwellings and bungalows. It states

9/2017/1196 - Land to the North of The School House, Dalbury Lees, DE65 5BE



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that pre-application advice was given that the proposal constituted infill development facilitated by policy BNE5. It states one detached house (southern plot) and one bungalow (northern plot) would be in-keeping with the character and would protect the privacy of neighbouring properties. A distance of 12m could be achieved between the blank wall of the proposed property and the main room windows on the northern elevation of The School House, whilst properties would be set back from the frontage similar to existing dwellings. The site is described as not visually prominent with a limited impact on the wider landscape character. Existing hedgerow would have to be removed but would be replaced in accordance with the required visibility splays. National and local planning policies are summarised and the report concludes that the proposal would constitute infilling in accordance with policy BNE5 and is similar to the infill dwelling permitted opposite.

Planning History

None

Responses to Consultations

The County Highway Authority has no objection to amended plans and recommends conditions in relation to the new access, closure of the existing access, parking and gates.

The Environmental Health Officer states that there is some evidence of the presence of potential infill and as such an informative is required.

Responses to Publicity

Dalbury Lees Parish Council objects as the site is outside the settlement boundary, as per the Local Plan Part 2, and the pre-application advice given seeks to overrule the Part 2 Local Plan. One of the dwellings would overlook The School House and may cause drainage problems.

Two letters of objection have been received raising the following concerns:

- a) The School House is a separate dwelling from the westernmost part of the building and as such there are no west facing windows;
- b) The windows in the northern elevation of The School House are significant with the ground floor ceiling heights at 2.1m and first floor cut into the roofline and as such a new house on higher land could easily be over-bearing;
- c) The proposed dwelling should be carefully designed and should be a 'compact form' as stated in the submission;
- d) The proposal is outside of the village permitted building areas as in the Local Plan Part 2.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H1 (Settlement Hierarchy), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) BNE5 (Development in the Countryside) and BNE7 (Trees, Woodland and Hedgerows)

National Guidance

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

Planning Considerations

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

- The principle of development;
- Highway safety impacts;
- Character and residential amenity; and
- Impacts on hedgerow

Planning Assessment

Principle of Development

The site is outside the settlement boundary of Lees and is thus considered as countryside. Policy H1 of the Local Plan Part 1 (LP1) considers limited infill and conversions of existing buildings to be acceptable in rural areas (countryside) and policy BNE5 of the Local Plan Part 2 (LP2) allows for infilling if it is considered to be in keeping with the character of the locality and represents infilling of a small gap for not normally more than two dwellings, within small groups of housing. Another requirement of the policy is that development would not unduly impact on landscape character and quality, biodiversity, best and most versatile agricultural land and heritage assets.

The proposal is considered to constitute infilling of a small gap between dwellings in an area where the character is of linear development along the road frontage within relatively generous plots. This linear development becomes more fragmented heading north out of the village when compared to the more contiguous built up form within the settlement confines. There is thus some scope to argue that the consolidation of the ribbon would alter the character of this approach to the village, particularly when considering the cumulative impact with the previous item on this agenda. However, the generally spacious nature of the plots allows the countryside to permeate around the dwellings and up to the roadside. The site is also not considered to represent an important gap between groups of housing due to its size and context. The harm arising is therefore not considered to be so great to fundamentally alter the character of the locality, or be at odds with it.

The scale of the dwellings also varies at this point of the lane with increasing focus towards single storey development, or at least retiring into the slope of the land. Nonetheless, the garden would link with the boundaries of the existing properties either side and due to the land level dropping to the south east along with existing screening; any long distance views would be viewed in context with the existing built development and would not result in an intrusion into the countryside. The principle of development is considered acceptable and accords with policies H1 and BNE5.

Highways

Policy INF2 of the LP1 requires that appropriate provision is made for safe and convenient access to and within the development. Whilst access is a reserved matter, the Highways Authority requires accesses which can achieve adequate visibility. The revised indicative plan shows visibility sightlines of 2.4m x 43m can be achieved in both directions, in line with the normal requirements. Therefore there is no objection and further detail of access can be deferred to the reserved matters stage. The proposal accords with policy INF2 and paragraph 32 of the NPPF.

Character and residential amenity

Layout, scale, appearance and landscaping are all reserved matters. Whilst a detailed assessment would be carried out at that later stage, it is necessary to establish the scope for the proposal development to achieve a satisfactory form in all these respects. The Planning Statement suggests that a bungalow is proposed in the northernmost plot to protect the outlook of Lees Bank to the north. A two storey dwelling is proposed in the plot adjacent to The School House, but with a 12m separation distance. That property has main room windows overlooking the site, but a 12m distance to a blank gable would achieve the minimum distance guidelines and thus the indicative layout demonstrates an appropriate impact. A bungalow and a dwelling would be in keeping with the character of the area and the effect on other dwellings is considered to be acceptable in principle. Any reserved matters application would have to accord with the Design Guide in any case – so not to have an adverse impact on the amenity of existing nearby occupiers and be appropriately designed in accordance with policy BNE1 of the LP1, the SPD and the NPPF.

Impacts on hedgerow

The loss of hedgerow is not ideal, but they are not considered to be so significant to warrant retention in situ. It could be translocated or replaced under the detail of reserved matters, and further compensatory planting can be secured by appropriate application of boundary treatments to the rear of the site. This would accord with policy BNE7 of the LP2.

Summary

The proposal is considered to qualify as infilling as it would fill a small gap within two existing properties. Whilst the existing fragmented ribbon would be consolidated with the edge of the village, it is not considered substantial so to alter the character of the locality – subject to conditions. Adequate emerging visibility can be achieved to

ensure a safe and suitable access whilst impacts on existing hedgerow and neighbouring properties can be safeguarded and considered in detail under the reserved matters submission.

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 listed at condition 2 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and

(b) The development hereby permitted shall be commenced 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 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following reserved matters on an application made in that regard:
 - (a) access,
 - (b) appearance,
 - (c) landscaping,
 - (d) layout, and
 - (e) scale.

The matters of scale shall demonstrate that northern plot has eaves and ridge heights comparable to the adjoining property to the north of the site, and that the southern plot has eaves and ridge heights comparable to the adjoining property to the south of the site.

Reason: This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. An Arboricultural Method Statement shall be submitted with the layout and scale reserved matters application(s). This shall explore the scope for translocation of the existing hedgerow to achieve access parameters set by condition 4. The development shall be carried out in conformity with the approved details throughout the course of the development, with any translocation works completed prior to the first occupation of the dwelling.

Reason: To safeguard and retain existing hedgerow wherever possible.

4. Before any works involving the construction of the dwelling commences, a new vehicular and pedestrian access shall be formed to each plot with

visibility sightlines extending from a point 2.4 metres back from the carriageway edge, measured along the centreline of the access, for a distance of 43 metres to the nearside carriageway edge in both directions. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety.

5. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

Informatives:

- a. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email Highways.Hub@derbyshire.gov.uk or telephone 01629 533190.
- b. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
- c. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- d. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at www.south-derbys.gov.uk) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
 - Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);

- Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

Further advice can be found online at www.south-derbys.gov.uk or by calling (01283) 228706.

Item 1.3

Ref. No. 9/2017/1357/NO

Applicant:
Mr P Hammond
11 The Green
Willington
Derby
DE65 6BP

Agent:
Mr Michael Congreve
Bi Design Architecture Ltd
79 High Street
Repton
Derbyshire
DE65 6GF

Proposal: THE ERECTION OF A SUN CANOPY AT 11 THE GREEN
WILLINGTON DERBY

Ward: Willington & Findern

Valid Date 19/12/2017

Reason for committee determination

The item is presented to Committee at the request of Councillor Ford because local concern has been expressed about a particular issue and unusual circumstances should be considered by the Committee.

Site Description

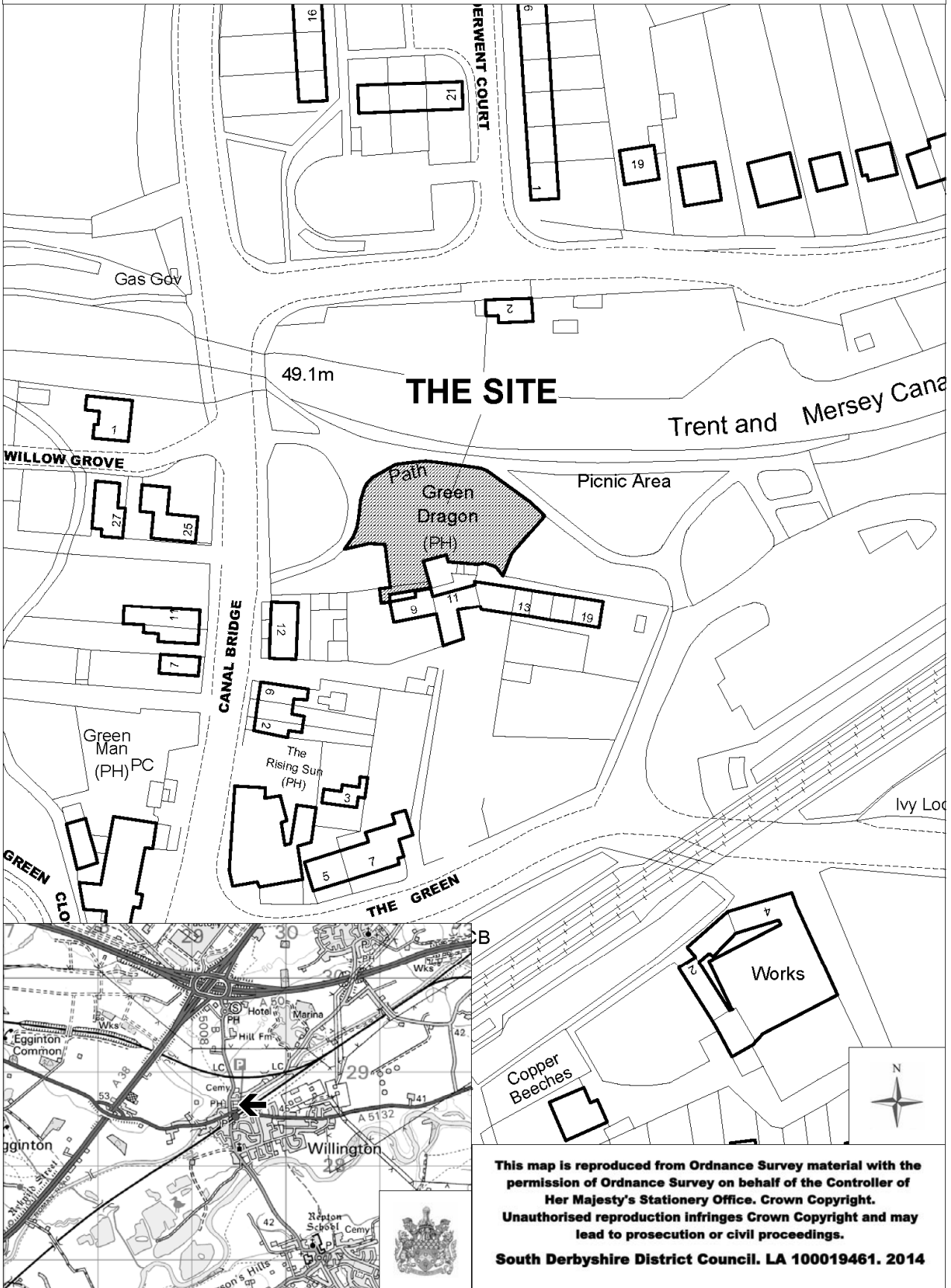
The proposed site is part of the existing seating area at the rear of the Dragon public house adjacent to the canal towpath. This land is owned by Derbyshire County Council but leased by the owner of The Dragon.

Proposal

This proposal is for the erection of a sun canopy at the rear of 11 The Green, Willington (The Dragon) within the existing seating area. The framed canopy system of 10 painted aluminium posts and blackout PVC fabric awning would cover an area of 8m x 7.1m. The outer edge of the canopy structure would be located on the boundary of the seating area and the canopy frame, the supporting metal legs, would be set into weighted planters. The rear line of the planters is to form part of the canal side boundary hedge.

Applicant's supporting information

The applicant has submitted the relevant plans and elevations as well as a technical specification of the canopy of the manufacturer.



Planning History

- 9/2010/0982 Alterations to existing public house to rearrange kitchen, toilets and living accommodation, provision of new access from canal side including new external eating/dining/drinking area, erection of a smoking shelter and alterations to car parking layout – Approved December 2010
- 9/2010/1012 The demolition of rear toilet block and store, porch and bay window to allow for alterations – Granted December 2010
- 9/2011/0461 Retrospective application for the erection of front & rear extensions and alterations to canal side ground levels to form new seating area. The erection of smoking shelter, fencing to rear seating area, external lighting, timber bin store, rebuilding of existing garage and installation of ventilation duct indicated – Approved January 2012
- 9/2012/1037 The erection of a glazed verandah and retention of minor landscaping works – Approved February 2013
- 9/2013/0627 Shed demolition, store extension, glazed screen, patio extension, wickerwork screening & kitchen/cellar extension – Approved October 2013
- 9/2013/0966 Change of use of existing dwelling to public house with extensions and alterations (retrospective in part) to provide for relocated kitchen, additional seating, external terrace and smoking shelter at ground floor, and offices, welfare facilities and 2 units of independent accommodation at first floor; along with conversion of existing garage to ancillary accommodation, conversion of existing prep room to micro-brewery, and relocation of vehicular access and reconfiguration of car parking – Approved February 2014
- 9/2014/0271 Proposed lighting columns, new path and surface finishes – Withdrawn June 2014
- 9/2015/0130 Change of use of land to extend beer garden, rep of retaining wall, formation of pathway and steps, and erection of gate on land to the canal side – Approved April 2015
- 9/2015/0375 Single storey extensions to the kitchen and restaurant areas – Approved June 2015
- 9/2017/0520 The retention of fixed external bar – Approved July 2017
- 9/2017/0649 The erection of an extension to the restaurant – Approved August 2017

Responses to Consultations

The County Highway Authority has no objection.

The Environmental Health Officer has no objection, noting they have no ongoing issues with the premises and the proposal would not increase the capacity of the outdoor area. Furthermore, in the event of any problems arising from the covered seating area, their department could restrict use of outdoor areas by way of a review under the provisions of the Licensing Act 2003.

Responses to Publicity

15 objection letters have been received, raising the following concerns/points:

- a) The canopy will dramatically reduce the outlook of the conservation area to adjacent properties of the Dragon blocking views from resident's homes;
- b) It would have a negative impact on the value of neighbouring houses;
- c) Previously, when a temporary canopy has been erected this has led to loud music late at night causing disrupted sleep;
- d) Canopy too large, though a smaller canopy would be acceptable;
- e) Canopy would be an eyesore and an adverse impact on the conservation area;
- f) The outdoor seating area has already taken over too much of the open space meant to be for everyone;
- g) The canopy will mean more people will sit outside more often during the year and will impact on people enjoying a quiet walk along the canal;
- h) More people, more often sitting outside, will mean more cars and traffic in the area, not beneficial to the area;
- i) This land is not owned by the owner of the Dragon. This is the Willington Picnic area – the land has been rented to the owner against the consent of the people of Willington;
- j) Canopy is not in keeping with the pub, canal or surroundings;
- k) When the pub goes bust who will restore the land and who will pay?
- l) Application form states that the site is not within 20m of a watercourse; and
- m) It would ruin the look of the pub from the towpath.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence) and BNE2 (Heritage Assets) and INF2 (Sustainable Transport)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and BNE10 (Heritage)

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD
- Trent and Mersey Canal Conservation Area Character Statement 2013

Planning Considerations

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

- The need for planning permission and principle of development;
- Visual amenity and character of the conservation area; and
- Residential Amenity

Planning Assessment

The need for planning permission and principle of development

Whilst the applicant rents the land from Derbyshire County Council, notice has been served on the County and the applicant completed the relevant part of the application forms to declare this has been carried out prior to the submission of the application. This is standard procedure when making an application that includes land not in the ownership of the applicant, and is a key allowance of the Planning Acts.

The proposal, as described above, is not fixed to the ground by way of conventional foundation, but the legs are to be set into weighted planters which are then to be filled with planting. Whilst moveable structures not fixed to the ground are sometimes not considered to be 'development', and would therefore not require planning permission; it is considered that the size of this proposal, the need for a specialist firm or builder to install or remove it and the suggested permanence of the proposal are, by matter of fact and degree, sufficient to conclude that this proposal is development and planning permission is necessary.

Notwithstanding this, the principle of such development in this location is appropriate. It is within the settlement confines and supports an existing business, serving both local residents and tourists.

Visual amenity and character of the conservation area

The Dragon public house and rear seating area are within the Trent and Mersey Canal Conservation Area. Policy BNE2 of the Local Plan Part 1 (LP1) states that *"development that affects heritage assets will be expected to protect, conserve and enhance the assets and their settings in accordance with national guidance and supplementary planning documents..."*. Policy BNE10 of the Local Plan Part 2 (LP2) echoes this approach. The Conservation Officer has considered the proposal, noting that the structure is open in nature and does not appear unduly bulky with the modern metal framing having more of an industrial aesthetic. Given the industrial heritage of the canal it would appear to be an appropriate design and there is not considered to be an undue harm arising here. The Conservation Officer confirms that

the development is considered to preserve the character of the conservation area in line with the aforementioned policies.

Residential Amenity

The proposed canopy is sited over existing outdoor seating where there is already a degree of impact on nearby residents. The canopy would not intensify the use, although it may make it more attractive for patrons. However, it would not be entirely enclosed from the elements such that its use would still be subject to seasonal and night-time influences (i.e. inclement weather and low temperatures). Coupled with no objections from the Environmental Health Officer, who highlights the scope for alternative powers to be exercised if necessary, the proposal complies with policy SD1 of the Local Plan.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawing No 23 B received on 15 December 2017; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. The canopy structure shall be painted black and the canopy itself shall be white, as shown in the manufacturer's specification. The structure and canopy shall not be painted a different colour unless previously agreed in writing by the Local Planning Authority.
Reason: In the interests of the character of the Conservation Area.

Item 1.4

Ref. No. 9/2017/1385/FM

Applicant:
Mr Stephen Shanker
c/o S G Design Studio

Agent:
Mr Stephen Greaves
S G Design Studio Limited
202 Woodville Road
Hartshorne
Swadlincote
Derbyshire
DE11 7EX

Proposal: THE ERECTION OF A DETACHED BUILDING TO FORM 4 FLATS, ALTERATIONS TO EXISTING WINDOWS AT 4 GOSELEY AVENUE AND EXTENSIONS AND ALTERATIONS TO 2 GOSELEY AVENUE HARTSHORNE SWADLINCOTE

Ward: Woodville

Valid Date 20/12/2017

Reason for committee determination

The item is presented to Committee at the request of Councillor Ray Tipping as local concern has been expressed regarding a certain issue.

Site Description

The site is located on the corner of Goseley Avenue and Woodville Road. The building is a mix of one and two-storeys with flat roofs, currently used as a shop (use class A1) and a take away (use class A5) with a residential flat above and single storey garages (stores) to the side. A two storey dwellinghouse is contained within the site and is located adjacent to the garages. The site provides a retail facility in what is a predominantly residential area.

Proposal

Consent is sought for the demolition of the garages and the erection of a two storey building to create four flats. In addition, to this, a single storey kitchen extension and internal alterations are proposed to the existing flat and shop building, and the side facing windows of the existing dwelling on the site are proposed to be bricked up to restrict overlooking of the proposed flats.

Planning History

The following planning applications have been submitted as explained below:



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- 9/1995/0923 The conversion into three bedsit units of part of the ground floor of the shop and living accommodation – Approved June 2015
- 9/1996/0352 The installation of a fume extractor chimney on the rear of the hot food takeaway shop – Approved September 1996
- 9/1998/0455 The variation of condition 3 of planning permission 9/1187/635 to permit Sunday opening between 1700 and 2400 hours, and to permit Friday and Saturday opening until 2400 hours at the hot food takeaway shop – Refused November 1998
- 9/2000/0118 The variation of condition 3 of planning permission 9/1187/635 to permit opening on Sundays and public holidays between 1700 and 2200 hours at the hot food takeaway shop – Approved May 2000
- 9/2000/1103 The retention of use as a base for a nursing agency of a room – Approved January 2001
- 9/2003/0842 Change of use and the erection of an extension to form a separate off licence including a new flat roof and shutters – Approved September 2003
- 9/2003/1363 Change of use and the erection of an extension to form a separate off licence including a new flat roof and shutters without complying with condition 4 of planning permission 9/2003/0842/F to allow openings Monday - Saturday 11:00am - 23:30pm, Sunday 11:00am -22:30pm and Bank Holiday 11:00am - 22:30pm – Approved December 2003
- 9/2004/1426 The erection of a building for storage – Approved December 2004
- 9/2012/0666 The proposed reconstruction of garages and store and the erection of extension and widening of existing dropped kerb – Approved October 2012

Responses to Consultations

The Environmental Health Officer has no objection.

The County Highway Authority have raised no objections to the application subject to the inclusion of conditions for a suitable visibility splay and for the proposed parking to be laid out in accordance with the submitted plans. There is currently very little off street parking available at the premises owing to the position of the bollards. It is considered that the proposed development would allow sufficient parking for the proposed and existing flats and the existing dwelling and would not increase the extent of on street parking that is currently experienced by the retail use.

Responses to Publicity

There has been one objection received, raising the following concerns/points:

- a) the gardens of neighbouring properties run along the rear of the proposed development which raises concerns over invasion of privacy, due to the proximity and size of this project - the first floor windows would overlook neighbouring gardens and their seating areas;
- b) residents enjoy spending time in their gardens and consider it very much as any room in the house;
- c) the proximity of the ground floor to neighbouring boundaries, considering that there would be potentially four new neighbours and the noise that may bring;
- d) the impact the proposed customer parking may have with it close to a junction and at busy times cars are parked both sides of the road, impeding buses and traffic from entering and leaving the estate.

Councillor Ray Tipping has also raised concerns, noting that the proposed flats would affect the open view of neighbouring properties, along with a lot of daylight to them. It is considered the first floor flats would overlook the whole of the neighbouring gardens, particularly the patio areas, and there would be no privacy anywhere in those gardens. A neighbouring conservatory, which is used all year round, would also be overlooked. It is also believed that the flats would be rented out, potentially attracting younger persons which may bring noise issues when windows are open in the summer months. Furthermore, there is already a parking problem outside the shop where people park on both sides of the road and there have been many incidents when the busses cannot get through.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence) and INF2 (Sustainable Transport).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and H27 (Residential Extensions and Other Householder Development).

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

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

- Principle of development;
- Impact on the amenity of neighbours;

- Highways safety impacts; and
- Design and appearance.

Planning Assessment

Principle of proposed works

The site is located within the boundary of the Swadlincote Urban Area, where the principle of new residential development would be appropriate owing to the sites proximity to services and facilities. The erection of the proposed building for flats would be broadly acceptable in principle and would comply with the criteria of policy H1 of the Local Plan Part 1 and policy SDT1 of the Local Plan Part 2.

The site currently operates as a retail shop and a hot food take away with a three bedroom flat above. With the exception of slight internal reconfigurations of the retail floor space; these are existing uses and layouts that may continue to operate irrespective of the outcome of this application. Those existing impacts should therefore be isolated when considering this proposal.

Impact on the amenity of neighbours

The proposed building achieves the minimum separation distances as contained within the South Derbyshire Design Guide. The ground levels between the site and neighbouring properties are fairly level and there are no topographical issues that would affect these separation distances or increase them.

The single storey kitchen extension would provide a side facing window, of which its outlook would be obstructed by the blank side elevation of the proposed flats. The extension would not encroach beyond the envelope of the existing building and would be contained on all sides by the existing footprint. This would mean that there would be no overlooking or overshadowing posed to neighbouring properties by the extension, such that it would comply with policy BNE1 and the SPD.

Concerns have been raised that the proposed windows of the flats would overlook the gardens of the neighbouring properties. However, the view from the proposed ground floor windows would be obscured due to the proximity of the windows to the boundary treatment. The first floor windows would be set back 5m from the boundary of the neighbouring properties and would be compliant with the requirements and principles of the South Derbyshire Design Guide. In any case, the windows would face out onto the lower end of the gardens affected which would not normally be protected in any case. The proposal would comply with policy BNE1 and the SPD.

Highways safety impacts

The proposal would utilise an existing access and would provide two car parking spaces for number 4 Goseley Avenue, two spaces for the two proposed 2-bedroom flats and one car parking space each of the proposed 1-bedroom flats. Whilst there has been no car parking allocated for the existing flat above the shop, there is currently no designated parking for this property (although occupiers could currently use the small area to the front of the garages/store on an informal basis). There are

however two visitor car parking spaces proposed that could be utilised by the existing flat. On this basis, there would be no worsening to the existing car parking provision at the site and whilst local concerns in respect of on-street parking are noted; the proposed flats would not contribute to worsening this situation. With no objection from the Highway Authority it would be unreasonable for the Council to withhold permission. The proposal is considered to comply with policy INF2 of the Local Plan Part 1.

Design and appearance

The site is located within a predominantly residential area that is characterised by post war semi-detached properties with a strong forward building line. The proposed building would be in keeping with the current forward building line of the existing street scene and would result in the removal of the single storey garage/store buildings which currently interrupt the street scene. The proposed building would make a positive contribution to the visual appearance of the street scene and the wider area. The proposed building and extension would comply with the principles of policy BNE1 of the Local Plan Part 1.

Conclusion

The proposed building would make a positive contribution to the street scene and would comply with the minimum separation distances as contained within the South Derbyshire Design Guide. There would be sufficient parking accommodated for the proposed development and it can be demonstrated that a safe and suitable access could be accommodated.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings 217-50.02, 217-50.03 and 217-50-04; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. Prior to any changes to the existing access provision, construction of the flats and/or creation of parking spaces, the existing access to Goseley Avenue shall be modified in accordance with the approved drawings, laid out, constructed and provided with visibility splays measuring 2.4m back from the rear edge of the carriageway and to the maximum achievable distance in both directions along Goseley Avenue, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interest of highway safety.

4. The new flats, subject of the application, shall not be occupied until space has been provided within the site in accordance with the approved drawings for the parking of residents and visitors vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety and to minimise on-street parking.

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

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

6. The proposed flats and the single storey extension shall not be constructed until specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; no part of the proposed development shall be occupied until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling(s)/building(s) to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

Informatives:

- a. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the

Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email Highways.Hub@derbyshire.gov.uk or telephone 01629 533190.

- b. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
- c. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- d. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- e. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.
- f. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at www.south-derbys.gov.uk) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
 - Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
 - Type B: intermediate name plates along local distributor roads, on collector

roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

Further advice can be found online at www.south-derbys.gov.uk or by calling (01283) 228706.

Item 1.5

Ref. No. 9/2018/0034/FH

Applicant:
Mr Andrew Bennett
Housing Adaptations
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Andrew Bennett
Housing Adaptations
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Proposal: THE ERECTION OF AN EXTENSION AT 21 EGGINTON ROAD
ETWALL DERBY

Ward: Etwall

Valid Date 09/01/2018

Reason for committee determination

The item is presented to Committee as the Council is the applicant and the proposed extension is to a Council owned property.

Site Description

The property is a mid-terrace two storey brick built dwelling, typical in form and finish to those in the street. It affords some frontage (with parking) and rear garden space, the rear space accessed by way of a shared 'ginnel'.

Proposal

The proposal is to demolish the current single storey rear 'store' and replace it with a larger, but still single storey rear extension finished with a pitched roof, to create a ground floor bedroom for a disabled occupant.

Applicant's supporting information

The project is being funded by a disabled facilities grant.

Planning History

None

Responses to Publicity

Etwall Parish Council has no objection.



Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: SD1 (Amenity and Environmental Quality) and BNE1 (Design Excellence)
- 2017 Local Plan Part 2: H27 (Residential Extensions and Other Householder Development)

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

The main issues central to the determination of this application are the design of the proposed extension and the impact it would have on neighbouring properties.

Planning Assessment

The form presented is in keeping, finished with a pitched roof and would extend some 4.5m from the rear wall of the host property. In such a context a 4.5m protrusion could cause a level of oppressiveness to the detriment of adjacent primary spaces, but this build is set well in, away from the boundary of the site, such that harm caused is reduced to a less than significant level. The extension is to be lightly fenestrated, only affording a view down its own garden. A condition that ensures the use of matching materials would ensure sympathetic execution of the development. As such the proposal would comply with the requirements of policy H27 of the Local Plan Part 2 and the SPD.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with Drawing Ref: 4887 AMB, received on 9th January 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. All external materials used in the development to which this permission relates shall be similar in appearance to those used in the existing building in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.

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

Item 1.6

Ref. No. 9/2018/0104/NO

Applicant:
Melbourne Sporting Partnership
Melbourne Sports Pavilion
Cockshut Lane
Melbourne
Derby

Agent:
Mr James Hogwood
4 Lulworth Road
Boulton Moor
Derby
DE24 5BJ

Proposal: INSTALLATION OF A NON-TURF CRICKET PITCH AT
MELBOURNE SPORTS PAVILION COCKSHUT LANE MELBOURNE
DERBY

Ward: Melbourne

Valid Date 25/01/2018

Reason for committee determination

This item is reported to the Committee as the proposal would be carried out on land that belongs to the Council.

Site Description

The site lies between two football pitches located more or less centrally within the Melbourne Sports Park complex at Cockshut Lane.

Proposal

The application proposes a non-turf cricket wicket.

Applicants' supporting information

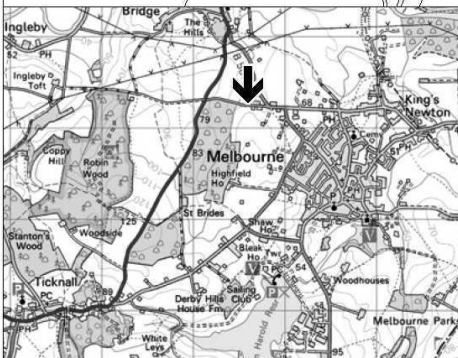
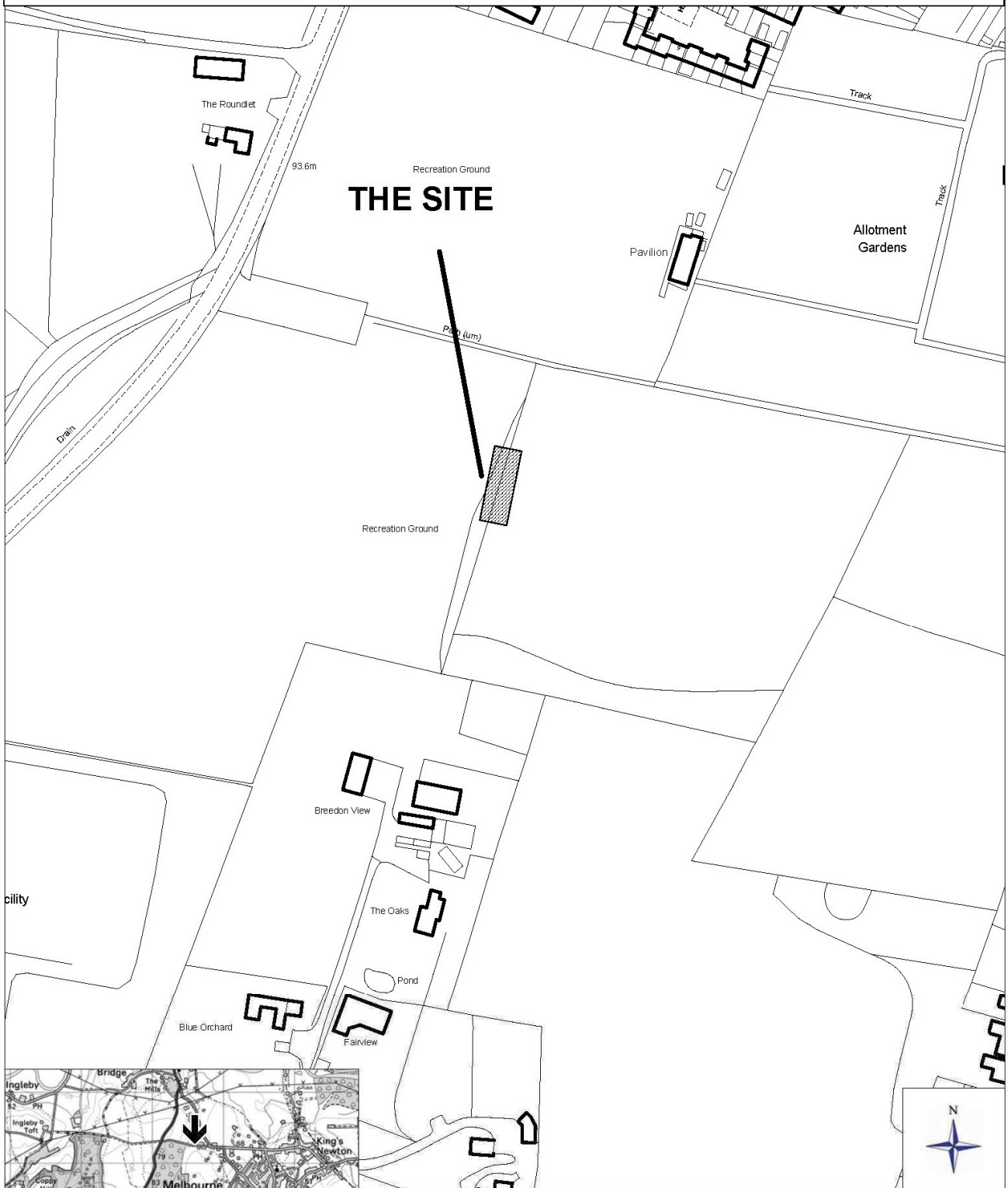
It is proposed to use the facility for practice and occasional junior matches.

Planning History

The sport and recreation facilities at Cockshut Lane have been substantially enhanced in recent years following the grant of planning permission 9/2011/0910 for comprehensive redevelopment.

Responses to Consultations

None.



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Responses to Publicity

Melbourne Civic Society has no objection. Any further responses received within the publicity period will be assessed and reported verbally.

Development Plan Policies

The relevant policies are:

- Local Plan Part 1 2016: S2 (Presumption in Favour of Sustainable Development), INF6 (Community Facilities) and INF9 (Open Space, Sport and Recreation).

National Guidance

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles) and Chapter 8 (Promoting Healthy Communities).
- Planning Practice Guidance (PPG): ID53.

Planning Considerations

The main issue central to the determination of this application is the impact on the living conditions of near neighbours.

Planning Assessment

The wicket would be situated between the existing football pitches and there would thus be no demonstrable increased impact on neighbours by way of noise. An appropriate condition would ensure that no activity takes place outside existing permitted hours of usage for the site as a whole. As such there is no conflict with the relevant Local Plan policies or the objectives of sustainable development.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The pitch hereby approved shall not be used after 2130 hours on any given day and before 0800 hours on the following day.

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

Item 2.1

Ref. No. 9/2017/1020/FH

Applicant:
Mr Nathan Kinson
36 Lullington Road
Overseal
Swadlincote
DE12 6NG

Agent:
Mr Nathan Kinson
36 Lullington Road
Overseal
Swadlincote
DE12 6NG

**Proposal: THE FORMATION OF A VEHICULAR ACCESS AND
HARDSTANDING AT 36 LULLINGTON ROAD OVERSEAL
SWADLINCOTE**

Ward: Seales

Valid Date 19/10/2017

Reason for committee determination

The item is presented to Committee following a Councillor request due to unusual site circumstances.

Site Description

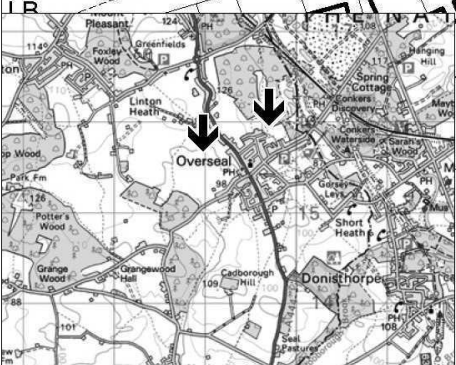
No.36 Lullington Road is on the bend of a road through a residential area with a grassed highway verge between the vehicular carriageway and the frontage land of the site. No. 36 forms the end unit of a row of semi-detached houses on the north side of the road, from which it is set back behind a long front garden.

Proposal

It is intended to form a vehicular access and create a hardstanding within the curtilage of the dwelling for parking and turning.

Applicant's supporting information

It is noted that a previous application for a vehicular access was refused and then subsequently dismissed at appeal, but that this application now overcomes previous issues. The applicant makes the point that this submission now has sufficient detailed drawings showing the position of the dropped kerb and the visibility splay required by county highways. It is noted that the proposed dropped kerb creates better visibility than the existing drop kerb at No.40 and would also improve highway safety as cars currently park on the road which is unsafe and causes congestion. Photographs have been submitted to demonstrate the current on road parking situation. The removal of the existing hedge and replacement with a picket fence has been proposed in order to assist with visibility.



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Planning History

9/2017/0389 Vehicular access and hardstanding – Refused and dismissed at appeal

9/2016/0567 Vehicular access and hardstanding – Refused

Responses to Consultations

County Highways consider the visibility to be substandard as it does not meet the required 2.4m x 43m required visibility sightlines. As such refusal is recommended.

Overseal Parish Council has no objection.

Responses to Publicity

A representation was submitted in support of the application stating that the creation of a vehicular access would stop cars from parking unsafely on the road and would allow for good visibility when emerging from the property.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: INF2 (Sustainable Transport)

National Guidance

National Planning Policy Framework (NPPF), particularly paragraph 32

Planning Considerations

The main issue central to the determination of this application is impact on highway safety.

Planning Assessment

The submitted drawings sufficiently show the position of the proposed vehicular access. County Highways require a sightline of 2.4m x 43m but consider that this proposal still does not achieve this as the line of sight would be across the frontage land of neighbouring gardens, which cannot be controlled in order to maintain visibility. The replacement of the existing hedge with a picket fence does not overcome this issue. As such the scheme would remain contrary to policy as set out in the reason for refusal below. This was the view of the Inspector on the dismissed appeal.

The existing vehicular access at no.40 is considered by County Highways to comply with the required visibility sightlines. All applications are decided on their merits and this site differs to no.36.

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

Recommendation

REFUSE permission for the following reason:

1. The proposed vehicular access would introduce vehicular movements onto a classified road at a point where the required visibility sightlines cannot be achieved. The proposed access therefore would be substandard and to the detriment of highway safety and contrary to policy INF2 of the Local Plan Part 1 and paragraph 32 of the NPPF.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated	Page
E/2014/00161	Lowes Lane, Swarkestone	Aston	Dismissed	Delegated	48



Appeal Decision

Site visit made on 30 January 2018

by Alan Novitzky BArch(Hons) MA(RCA) PhD RIBA

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

Decision date: 02 February 2018

Appeal Ref: APP/F1040/F/17/3173528

The Farmhouse, Lowes Farm, Lowes Lane, Swarkestone, Derby DE73 7GQ

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Paul Anthony Martin against a listed building enforcement notice issued by South Derbyshire District Council.
 - The enforcement notice, numbered E/2014/00161, was issued on 13 March 2017.
 - The contravention of listed building control alleged in the notice is, without listed building consent, the installation of 10 No. uPVC 'Residence 9' windows on the front and side elevations of the Grade II Listed Building.
 - The requirements of the notice are: Remove the 10 No. uPVC 'Residence 9' windows from the building. Replace the windows with timber glazed windows in accordance with the schedule attached as Appendix GJR1.WS.
 - The period for compliance with the requirements is two years
 - The appeal is made on the grounds set out in section 39(1)(e) and (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
-

Decision

1. The appeal is dismissed and the listed building enforcement notice is upheld. Listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the Act).

Ground (e) –*That listed building consent ought to be granted for the works*

Main Issue

2. The effect of the works on the special interest of the listed building.

Reasons

3. The early 19th century, Grade II listed Lowes Farmhouse and attached Farm Buildings were first listed in March 1987. The complex of buildings, in red brick with day tiled roofs, is significant because of its architectural and historic interest. The wing now known as the Farmhouse, a two storey building, with accommodation in the roof space, is attached to the northern side of the complex, with a single storey element projecting northwards.
4. Although less formally arranged than some other parts of the complex, the Farmhouse wing is a fine example of the local built vernacular. It retains contemporary features such as segmental arched brick openings and dentilled eaves coursings. It should not be treated as inferior to the rest of the listed

<https://www.gov.uk/planning-inspectorate>

- building, nor is it any less important because it can be seen from few public viewpoints.
5. The windows appear to have been replaced following planning permission and listed building consent granted in 1995 for the conversion of the listed building to five dwellings. The painted timber windows were conditioned to be single glazed in the case of Windows 1, 2, 3 and 5, but double glazing or secondary glazing was permitted for the remaining windows covered by the enforcement notice. The parties debate whether the conditions were followed but, in any event, they indicate the authorised forms of glazing, and these are set out in the requirements of the notice.
 6. The replacement uPVC windows provide a superficial appearance of traditional timber casement windows. However, they are visually much bulkier, with their substantially deeper, wider frame sections, and large overall depth of sealed units. The double reflection of the units, the duplication of glazing bars on each face, their substantial black spacer gaskets and uPVC beading, provide an uncharacteristically strong and unrefined visual presence on the face of the window. This compares with the more delicate recessive appearance of traditional timber windows, with their single reflection, thin glazing bars and putty beading.
 7. Moreover the uPVC material, although grained, gives an overly regular, planar impression, quite unlike the individual, organic appearance of painted timber. Also, its grey-green colouring is inappropriate in the context of the white colouring used elsewhere on the listed building. These characteristics are thrown into relief by the presence of white painted traditional timber framed casement windows in the adjacent elevation, seen in conjunction with the Farmhouse.
 8. I disagree with the assertion that the windows are not a significant element of the building's architectural and historic interest. The simple, traditional brick and tile appearance of the wing invites engagement with the detail of the eaves and the openings, and the windows become an important component of the architectural composition.
 9. I have read the appeal decisions submitted by the Appellant involving approval of uPVC windows and doors. However, they offer few useful parallels. Some involve the insertion of uPVC elements in elevations where uPVC windows are already in place; others the use of uPVC in a poor quality or wholly modern extensions to listed buildings where previous windows were harmful to the significance of the listed building. I place little weight on these precedents.
 10. The National Planning Policy Framework (NPPF) offers a method of assessing the impact of a development on the significance of a heritage asset. I find that the works lead to less than substantial harm to the significance of the listed building.¹ Regarding public benefits to be weighed against this harm, since 'slimline' double glazing is acceptable in some windows and secondary glazing is acceptable in those with single glazing, only a small gain in thermal and acoustic efficiency arises.
 11. This public benefit, together with the reduced maintenance of uPVC windows, does not outweigh the harm to the significance of the heritage asset. The

¹ NPPF para 134

effect of the works on the special interest of the listed building is unacceptable. In reaching this conclusion, I have had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, as required by s16(2) of the Act.

12. The works also conflict with Policy BNE2 (Heritage Assets) of the South Derbyshire Local Plan (Part 1) adopted June 2016, with Policy BNE11 (Heritage) of the emerging Local Plan (Part 2), and with the development plan as a whole. The appeal fails on ground (e).

Ground (i) – *That the steps required to restore the character of the building would not serve that purpose*

13. The Appellant notes that the requirements of the notice are very detailed and go beyond any assessment based on the evidence available of the windows previously installed. The requirements therefore seek an unwarranted improvement on the situation prior to installation of the uPVC windows. The Appellant concludes that what could reasonably be required, based on available evidence, would be more harmful to the significance of the listed building than the windows presently installed.
14. I have studied the requirements of the notice and consider that the only aspect which might be thought speculative concerns the various moulded profiles suggested as alternatives for the timber members. However, the simplest choice offered of a basic chamfered profile is unlikely to represent an improvement on the previously authorised windows, and the more elaborate alternative profiles may well have applied. In this respect, it should be born in mind that any timber windows remaining in the wing might not conform to authorised details, despite there being no evidence of complaints or previous enforcement action.
15. In addition, it seems quite probable that the authorised frames were recessed some 50mm behind the face of the brickwork, as required by the notice. The photograph of Window 10 appears to confirm a setback of this order.
16. The appeal fails on ground (i).

Alan Novitzky

Inspector