



# Appeal Decision

Site visit made on Tuesday 13 March 2007

by **Roger P Brown** Dip Arch ARIBA Dip TP MRTPI

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

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Date: 26 March 2007

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**Appeal Ref: APP/F1040/A/06/2029765**

**Land adjacent to 126 Gresley Wood Road, Church Gresley, Swadlincote, Derbyshire DE11 9QP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr & Mrs B Moore against the decision of South Derbyshire District Council.
- The application Ref 9/2006/0716/O, dated 10 June 2006, was refused by notice dated 7 August 2006.
- The development proposed is residential development.

**Summary of Decision: The appeal is dismissed.**

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## Procedural Matters

1. The outline planning application has all matters reserved for future consideration. The Council failed to attend the accompanied site visit. However, because the appeal site was clearly visible from the public highway, with the appellants' agreement I undertook an unaccompanied site visit.

## Main Issue

2. This is whether adequate vehicular access could be provided to/from the appeal site.

## Planning Policy

3. The development plan includes the Regional Spatial Strategy for the East Midlands (RSS8), the Derby and Derbyshire Joint Structure Plan (SP), and the South Derbyshire Local Plan (LP). There is no objection in principle to residential development within the appeal site. Consequently, of those Policies to which my attention has been drawn, I consider SP Transport Policy 4 and LP Transport Policy 6 to be the most pertinent to the main issue; these both provide guidance pertaining to access and highway safety.
4. Both parties have variously made reference to advice in Planning Policy Guidance 13 – Transport, Places Streets and Movements – The Companion Guide to DB32, and the Derbyshire County Council document 'Roads in Housing – Residential Standards in Derbyshire'.

## Reasons

5. The appeal site of some 13.5m wide x 45m deep is presently part of the garden to the north of no. 126, a detached property located on the south western side of Gresley Wood Road. The property to the north of the overall curtilage is no.130. Gresley Wood Road links Church Gresley to the south east with the A514 and the A444 to the west, and is a bus route and subject to a 30 mph speed limit. Within the vicinity of the appeal site Gresley Wood
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Road comprises a 7.3m carriageway with a 1.6m footpath on the north eastern side; on the south western side the footpath varies in width from 1.8m and 2.3m.

6. As stated, the outline planning permission has all matters reserved, there being no identified point of access. When providing advice as Highway Authority, Derbyshire County Council assumed that access would be adjacent to the north-western side of the appeal site; access at any other point along the site frontage would provide reduced standards of visibility.
7. The County Council advised that at such a location, visibility available to a driver emerging onto Gresley Wood Road at a distance 2m back from the carriageway edge and at a height of 1.05m relative to the nearside carriageway edge would be some 65m to the left and 50m to the right. Whilst the visibility to the left would be substandard, being obscured by the boundary wall of the neighbouring property, it would be unlikely to conceal oncoming traffic. As such the County Council concluded that it would not be detrimental to highway safety.
8. The assessment of visibility to the right assumed sightlines extending across the frontage of no.126. Whilst it would not fully accord with current highway standards, the condition proposed by the County Council (and which in principle I consider acceptable) also required a sightline extending across no.126, and to the extremities of the frontage of the controlled land abutting the highway. Indeed, the appellants state that *'Visibility uphill, assuming hedges and fencing to the application site and to the front garden to 126 are removed exceeds 2m x 45m assuming the access is located close to the boundary with 130'*.
9. Advice in Circular 11/95 – The Use of Planning Conditions in Planning Permissions states that conditions must be enforceable. Should the ownership of the appeal site change (highly likely in the context of the residential development proposed), then there is no mechanism before me to ensure compliance with the sightline requirements; these would affect land beyond the curtilage and outside the control of the appeal site.
10. Consequently, I am not convinced that adequate vehicular access could be provided to/from the appeal site. Therefore, the proposal before me does not accord with the main thrust and/or relevant criteria of the aforementioned development plan Policies. I have given careful consideration to all other matters raised, but nothing persuades me from my determination of the main issue.

#### **Formal Decision**

11. I dismiss the appeal.

*Roger P Brown*

INSPECTOR