

## DEVELOPMENT CONTROL COMMITTEE – 8 February 2005

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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### REPORT OF THE PLANNING SERVICES MANAGER

1. Planning Applications
2. Appeals and prosecutions

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

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



08/02/2005

**Item** 1.1**Reg. No.** 9/2004/1064/F**Applicant:**  
Alpine Aero Ltd  
Manor Farm House  
London Road  
Shardlow  
Derbyshire  
DE72 2GR**Agent:**  
MMA Design Ltd  
70 Friar Gate  
Derby  
DE1 1FP**Proposal:** **The extension of existing offices and erection of new two storey offices at Manor Farm House London Road Shardlow Derby****Ward:** **Aston****Valid Date:** **13/08/2004**

The application is brought to the Committee on the instruction of Councillor Mrs Renwick.

### **Site Description**

The site lies at the western edge of the village, next to the Grove Hospital and Safepharm premises. It was once a farmhouse and gardens. It became a private residence unconnected with farming about 20 years ago, when the adjacent business use became established. In recent years it has been used as offices. There is a large Cedar tree in the garden, which has recently been made subject to a Tree Preservation Order.

### **Proposal**

The application seeks a two-storey extension to the side of the exiting building, for additional storage and office space. A new two-storey office building is proposed towards the rear of the site close to the boundary with the adjacent business site. The new building would be of modern design, in brick and incorporating a hipped roof. It would be similar in height (some 9 metres) to the existing building on the site. About half the garden, along the western side boundary, would be hard surfaced and utilised for parking whilst the remainder would be retained as grass. The Cedar tree would be retained in the scheme.

### **Applicant's Supporting Information**

Following a traffic speed survey by consultants, the applicant considers the requisite visibility splays to be 90 metres to the left and 70 metres to the right, with a forward visibility requirement of 70 metres for traffic approaching from Shardlow.

## Site History

Permission for the current business use of the site was granted in 1998 (9/1198/0636/U).

## Responses to Consultations

The Parish Council considers that there would be insufficient parking and would object to parking in the lawned area at the front. The Cedar tree should be protected.

The Highway Authority has no objection in principle, based on the findings of the speed survey.

The Environment Agency objects on the basis that the application is not accompanied by a flood risk assessment. However the Agency acknowledges that the site is in a location defended to a high standard and therefore the probability of flooding is reduced.

## Responses to Publicity

The adjoining business user, whilst not objecting to the scheme, comments as follows:

- a) The boundaries may not be correctly shown on the drawings.
- b) Means of foul and surface water disposal is not specified. The existing private storm water drain is subject to blockage and surcharge at times. Flooding has occurred at times.
- c) Additional traffic would increase the risk of accidents.
- d) The adjacent user is subject to high security and is concerned that this would be prejudiced.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 1 & 3 and Economy Policies 4 & 5

Local Plan: Employment Policies 1 & 5

Emerging Local Plan: Policies ENV13, 21 & EMP2

## Planning Considerations

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

- The principle.
- Impact on the character of the area.
- Highway safety.
- Residential amenity.
- Flood risk.

## Planning Assessment

The proposal meets the basic locational policies for business development. Situated at the edge of a serviced village the proposal would promote sustainability by providing employment close to a centre of population.

The building would be set between existing structures and would be of similar scale to the existing building on the site and of sympathetic design. The extension to the existing building would respect its architecture. Therefore the development would be in keeping with the character of the area.

On the advice of the Highway Authority the proposal would not adversely affect highway safety interests, including parking.

The office use would not have a demonstrably harmful effect on existing and future residents and businesses close to the site.

The site lies in an area defended from flood. Paragraph 69 of PPG25 states that development behind river flood defences should be subject to measures to reduce the risk of flooding through the design and construction of new buildings. As the issue concerns protection of the proposed building, rather than the implications for others e.g. as a result of loss of flood plain, this could be adequately covered by an appropriate condition.

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

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of five years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 313 - P01A received 07 January 2004.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.
4. The windows in the south east (rear) and south west (side) wall of the building shall be permanently glazed in obscure glass.  
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.
5. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.  
Reason: In the interests of the appearance of the area.

6. 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.

7. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area shown hatched on the attached plan 9/2004/1064/F shall be fenced with chestnut pale fencing to a minimum height of one metre staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

8. Prior to the commencement of the development hereby permitted the applicant shall confirm in writing to the Local Planning Authority, as a minimum , that:

(1) Floor levels within the proposed development will be set no lower than existing levels AND,

(2) Flood proofing of the proposed development has been considered by the applicant and incorporated where appropriate.

Reason: In the interests of flood protection.

9. Prior to any other works commencing, the access shall be provided with visibility sightlines of 4.5m x 90 m in the westerly direction and 4.5m x 70 m in the easterly direction, the area forward of the sightlines thereafter being retained free of any obstruction to visibility exceeding 1 m in height (600 mm for vegetation) relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

10. Prior to any other works commencing, except for Condition 9 above, the forward visibility sightline (shown on BSP Consulting Figure 1) shall be cleared and thereafter retained clear of any obstruction exceeding 1 m in height (600mmm for vegetation) relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

11. Prior to the first use of the development the car parking and manoeuvring area shall be laid out in accordance with the application drawing and retained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

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

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

**Informatives:**

In the event that condition 8 is insufficient and floor levels within the extension and/or new building must be set 300mm above the known or modelled 1 in 100 year (annual probability 1% chance) river flood level or 1 in 200 year (annual probability 0.5% chance) tidal & coastal flood level (which has been demonstrated by a plan to Ordnance Datum/GPS showing finished floor levels relative to the known or modelled flood level), then a further planning permission may be required.

**Item** 1.2

**Reg. No.** 9/2004/1094/F

**Applicant:**

Mr R Hosking  
Highfield Farm Heage Lane  
Etwall  
Derby  
DE65 6LS

**Agent:**

Darryn Buttrill  
Bi Design Architecture  
First Floor Studio  
79 High Street  
Repton  
Derbyshire  
DE65 6GF

**Proposal:** The erection of a single storey granny annexe at Highfield Farm Heage Lane Etwall

**Ward:** Etwall

**Valid Date:** 26/08/2004

**Site Description**

The site lies immediately adjacent to the farmhouse. There are no current boundary features which would separate the site from the open field to the rear.

**Proposal**

The extension would contain living accommodation of living room, dining kitchen, a bathroom, 1 bedroom and a study. In the roof space a craft room is proposed. There would be links into the main house at ground and first floor level. The existing garden area to the house would be extended to incorporate the extension of the house.

An unauthorised temporary bungalow would be removed from the site as well as a temporary building that is currently used as the farm office.

**Planning History**

The farm has a long and varied history. In terms of residential accommodation, there are 2 permanent dwellings at the site, one occupied by the owner and one by a farm manager. A recent appeal for a third dwelling at the site was dismissed. Other recent applications have been for the erection of new and replacement chicken units that form the basis of the farm business. However, the farm owners also rear other animals and operate an open farm centre. In addition to the open farm, the owner and his family operate as a centre for young people who have problems with school and in the community. The young people are provided with a practical education as well as learning basic skills through that experience. A teacher is employed at the site on a full-time basis.



## Responses to Consultations

Etwall Parish Council considers that the extension is just another way of getting a dwelling on the site. It has a large footprint and would represent an intrusion into the countryside. *(Since the application was first submitted, the amount of accommodation and the scale of the structure have been considerable reduced and the extension is now subordinate to the main dwelling).*

## Responses to Publicity

None

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 6,

Local Plan: Environment Policy 1, Housing Policy 8 & 13,

Emerging Local Plan: Policy ENV 7 & 21.

## Planning Considerations

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

- The Development Plan
- The impact on the countryside

## Planning Assessment

The Development Plan requires that new residential development in the countryside should be necessary for the operation of an established rural business. The proposed extension contains all the facilities to be occupied as a separate dwelling. Whilst a permanent third dwelling on the holding has been resisted, the provision of additional living accommodation attached to the house and linked to it both physically and would not appear that different from a traditional residential extension. A condition attached to the permission would ensure that this situation remained.

In terms of the needs of the holding as an agricultural operation, the erection of a third dwelling was described as desirable but not essential to the agricultural operation of the farm. If accepted the extension would not be a separate dwelling and would meet the desirable situation outlined in the independent consultant's report (as submitted with the application for the third dwelling) on the overall business carried out at the farm without prejudicing the proper controls over unrestricted residential development in the countryside.

The impact of the extension on the character of the area has been considered in the design of the amended proposal. The extension of the dwelling would have the appearance of an attached outbuilding subordinate to the main house and would therefore 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 five years from the date of this permission.

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

2. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

3. The living accommodation hereby permitted shall be occupied solely by members of the household of Highfields Farmhouse or by staff employed at the farm, and shall not be severed from the main house as a separate and unconnected dwelling.

Reason: Permission is granted in the light of your particular personal circumstances. Although the erection of an extension to provide additional accommodation to be used in conjunction with the existing dwelling is acceptable, the Council would not normally be inclined to allow the formation of a separate residential unit in this locality. Since the extension includes all the domestic facilities necessary for the establishment of a separate self-contained unit, the Council hereby seeks to make it clear that separate occupation is not authorised by this permission.

4. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 470S/04.

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

08/02/2005

**Item** 1.3**Reg. No.** 9/2004/1373/F**Applicant:**

Davinda Gidda  
 3 Daylesford Close  
 Littleover  
 Derby

**Agent:**

D W Decamps  
 20 Rowditch Avenue  
 Derby  
 DE22 3LD

**Proposal:** The erection of two garages and gazebo, external alterations and new access at The Greyhound PH Heath Lane Findern Derby

**Ward:** Willington/Findern

**Valid Date:** 19/10/2004

This application is brought to Committee at the request of Councillor Ford.

**Site Description**

The site lies in the Trent and Mersey Canal Conservation Area. The land has an open frontage to the canal. Fences enclose two of the boundaries and the third was open but has now been enclosed by a boundary wall that form part of the proposals in the current application. The applicant is constructing extensions to the pub that were previously permitted.

**Proposal**

The application is as described above but the wall mentioned has been commenced along the east boundary of the site.

**Applicants' supporting information**

The application has been amended to site the proposed gazebo adjoining the east boundary wall. The method of construction has been reduced to make it a more demountable structure and it would no longer be constructed on a concrete base.

**Planning History**

As stated above extensions have previously been granted on the site for extensions to the public house. The use of the public house as a restaurant is permitted by virtue of the Use Classes Order as both are within the same use class. A similar application was withdrawn last year pending amendments to the then submitted scheme.

## Responses to Consultations

Findern Parish Council object to the development for the following reasons: -

- a) The gazebo looks like a modular tent and is not in keeping with the surrounding area nor the main building
- b) Any increase in traffic using the site would be dangerous, there is virtually no visibility to the right and traffic approaching over the bridge has to swing out into the road to make the turn
- c) There is concern about the potential for smells from the kitchen and the modular tent if the site is intended to operate as a restaurant.

The County Highway Authority requires that the access be widened to 7 metres to allow easy two-way movement and pedestrian intervisibility. If the above were achieved, then there would be no objection to the development as the open sided gazebo is unlikely to generate significant levels of additional traffic. If this were a permanent structure it is likely to attract an objection from the County Highway Authority.

British Waterways has no objection to the principle of the application subject to no obstruction to the culvert that it has access to that passes through the site and it is requested that the applicant contact British Waterways if there is likely to be an obstruction of the route

The Head of Environmental Health has no objections.

The Conservation officer has no objection subject to the latest amended plans and subject to conditions governing materials of construction, details of the fire escape door, approval of pointing details, painting of timber, internal arrangements for servicing and ducting, hard landscaping being approved and the use of traditional coping on the walls.

## Responses to Publicity

One letter has been received objecting because of the substandard nature of the access, the potential for cars being parked or queuing on the lane, there is concern that the gazebo would not be in keeping with the area, the garages are in an area that carries water away and it needs unblocking, the new windows are not necessarily in keeping, the opening hours should be controlled and there is a potential for smells from the site.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Economy Policy 4, Environment Policy 9;

Local Plan: Employment Policy 1, Environment Policy 12;

Emerging Local Plan: Policies EMP 2, ENV 21A.

## Planning Considerations

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

- The Development Plan
- The impact on the Trent and Mersey Canal Conservation Area
- The access to the site

- The impact of smells on nearby properties.

### **Planning Assessment**

The expansion of existing businesses is acceptable under the provisions of the Development Plan policies identified above unless there are unacceptable environmental or traffic impacts.

The application has been the subject of amendment that has brought it to an acceptable state for the Council's Conservation Officer and the County Highway Authority. In light of this, the refusal of permission on the basis of the objections raised by the Parish Council and objector would be difficult to sustain at appeal. The erection of the garages may cause some concern to British Waterways but they would have separate rights to control their access to the culverts to which they have referred.

The County Highway Authority has indicated that if the gazebo was of a permanent construction, it would have objected. The reason it did not was on the basis that the open sides of the gazebo mean that its use would be limited and the likely traffic generation would thus be less than for a permanent structure. In addition, discussions with the applicant reveal that the gazebo would be used primarily to serve passing trade on the canal.

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

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of five years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. Revision C received on 11 January 2005.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Large scale drawings to a minimum Scale of 1:10 of the proposed fire escape door shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.  
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
4. No part of the development shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The approved samples shall be used in the development hereby approved.  
Reason: To safeguard the appearance of the existing building and the locality generally.

5. Pointing of the proposed works shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".

Reason: In the interests of maintaining the appearance of the Canal Conservation Area.

6. A sample panel of pointing 1 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing.

Reason: In the interests of the appearance of the building(s) and the locality generally.

7. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.

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

8. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced. This applies to the provision of the extractor flue that is shown constructed internally on the amended drawing referred to in Condition 2 above.

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

9. No part of the development shall be carried out until precise details including paving patterns, specification and samples of the materials to be used in the hard landscaping of the site have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority

Reason: In the interests of maintaining the character and appearance of the Canal Conservation Area.

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

Reason: In the interests of maintaining the character and appearance of the Canal Conservation Area.

#### Informatives:

You are advised to note the requirements of British Waterways set out in the attached letter, the route of the culvert appears to be close to the proposed garages and you should contact the company as suggested in the letter prior to erecting the garages.

08/02/2005

**Item** 1.4**Reg. No.** 9/2004/1395/U**Applicant:**

Mr J Rook  
 Blue Post Caravan Burton Road  
 Egginton  
 Derby  
 DE65 6HA

**Agent:**

Philip Brown Associates  
 74 Park Road  
 Rugby  
 CV21 2QX

**Proposal:** Extension to the existing caravan site at Blue Post Caravan  
 Burton Road Egginton Derby

**Ward:** Etwall

**Valid Date:** 28/10/2004

**Site Description**

The site is formed by an existing gypsy site and adjacent land that formed a farmyard. A brick wall that in places exceeds 1.0 metre in height where the enlarged site runs adjacent to the lane off the A38 has enclosed the whole of the site. An existing building within the site has been restored in the last few months. A range of outbuildings lies adjacent to the Trent and Mersey Canal Conservation area. High Bridge and High Bridge House are both Listed Buildings.

**Proposal**

The site has been amended since submission to reflect the situation on the ground.

Although the application has been submitted for permission to extend the site, the applicant has extended the site by virtue of demolishing part of the wall that enclosed the site on its north and east sides and erecting a new one on the boundary of adjoining land in his ownership. The restored building would be used as an amenity block. A septic tank system has also been installed.

The Derbyshire Gypsy Liaison Group has confirmed that the family has travelled and lived within South Derbyshire for a number of years.

**Applicants' supporting information**

Permission exists for the Blue Post Caravan site subject to a limit of 3 caravans. The extended site is required to provide accommodation for 3 families from the applicant's extended family. These families can be accommodated on the existing site but more land is required for the families in terms of a static van and touring van for travelling. Thus there would be no additional traffic generated by the site.

The walls that were erected have been put up under permitted development rights and would remain in place whatever the outcome of the application. The appearance of the yard has been tidied considerably as has the existing building. Tree and shrub planting has already been undertaken and sufficient room exists for more.

The Authority is invited to make any permission subject to a condition that limits the occupation of the site to three families with no more than 6 caravans on site at any one time and no more than 3 of which may be static vans.

### **Planning History**

Planning permission for the original site was granted at appeal in the late 1980's. It was occupied but was then left vacant for a number of years. A subsequent application to remove the limit on the named families occupying the site was refused but an appeal decision last year re-established the use of the site as a gypsy site for up to 3 families.

### **Responses to Consultations**

Egginton Parish Council has objected to the application for the following reasons: -

- a) The site is liable to flooding as demonstrated by a photograph that has been sent to you by a resident.
- b) The access to the site is highly dangerous; there have been two fatalities in the recent past not far from this site. There is no slip road onto the A38 and traffic emerging from the site has to have a standing start.
- c) The development adversely affects the character and appearance of the listed buildings and the Canal Conservation Area.

The County Highway Authority required that the Highways Agency be consulted. It has no objection to the proposal subject to it being limited as suggested in the supporting information to the application.

The Head of Environmental Health has no objection.

In addition to the above Parish Council comments a Parish Councillor has made the following comments through the Clerk: -

- a) The land is washland and floodwater oozes through the ground causing the site to flood.
- b) The Environment Agency should be invited to comment
- c) The District Council provides enough land to meet the needs of the travelling community.
- d) The applicants are well aware of all the latest advice whereas the District Council's officers can only give limited time to each case.

The comments of the Environment Agency will be reported at the Committee.



## Responses to Publicity

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

- a) The access is unsuitable; there is difficulty in leaving and joining the A38, it would be even worse if a caravan were being towed. The stretch of road is already an accident black spot. Adding more traffic is bound to be dangerous.
- b) The sewerage system has been installed without building regulation approval on land that is susceptible to flooding not least through the ground.
- c) Before the wall was erected the site flooded regularly, a photograph is sent in to demonstrate the point.
- d) The erection of the wall will obstruct flows coming from the Egginton direction.
- e) The site detracts from the setting of the Grade II Listed buildings, it is asserted that the land in question was once part of the Highbridge House curtilage; it was only separated because of some legal mismanagement. The site should be retained in open use to maintain the setting of the buildings.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 8.

Local Plan: Environment Policy 1, Housing Policy 15.

Emerging Local Plan: Policies ENV 7 & H 11

## Planning Considerations

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

- Government Advice relating to the Provision of Gypsy Sites and the weight to be attached to it
- The Development Plan
- The impact of the development on the character and appearance of the area,
- The access to the site

## Planning Assessment

Current Government advice is contained in Circular 1/94 and subsequent amendments all of which are to be consolidated and expanded upon in new circular that is currently out for consultation. The thrust of the current circular is that Council's should continue to make provision for gypsy sites but that private provision is also encouraged.

This basic advice has been expanded upon in various statements since the publication of the circular. In summary, it is not acceptable for Authorities to rely solely on criteria based policies unless it can be demonstrated that a full assessment of the needs of the travelling community has been undertaken. Where it is demonstrated that site provision is necessary, then the Authorities should make provision for such sites in its Local Plan.

The draft circular, that will be the subject of a report to the Environment and Development Services Committee in due course, sets out how the Government expects Authorities to deal with applications prior to the completion of the local housing needs assessment. It expects that sources of information be available such as monitoring incitements of unauthorised

encampments, the status of existing authorised private sites, the number and outcomes of planning applications, the levels of occupancy on private and public sites and the twice yearly count undertaken by the ODPM. If an application is to be refused then this information should be provided as part of the appeal documentation.

This Authority's criteria based policy has been challenged on a number of occasions in the past couple of years and has been found to be wanting in terms of the lack of any knowledge about the overall requirements of the travelling community. Thus, notwithstanding the objections that have been made to applications, the proposals of the community have been upheld at appeal in the vast majority of cases. Accordingly, if the Authority wishes to oppose this proposal, it would need to be satisfied that the provisions for the travelling community are adequate especially in the light of the latest Draft Circulars advice on steps to be taken to determine application in the interim period.

As a first stage in understanding the needs of the travelling community, the Authority commissioned a report on the existing facilities in the area. It identified that the community was generally satisfied with the sites where interviews took place but also identified that the site at Park Road Overseal is not available to the travelling community. It also showed that the turnover at the well-established sites was very small because, once based in the area, its attractiveness, low crime rates and other factors make staying in South Derbyshire a priority. The respondents generally had no conflict with the resident community and the majority had been in their existing site in excess of one year, 35% having been in residence for over 5 years.

In terms of the bi-annual count, this continues to reveal that unauthorised encampment take place within the administrative area. This is emphasised by recent experiences in the Hilton, Hatton and Linton areas where land was occupied but the occupiers were moved on.

The site at Church Broughton (Woodyard Lane) remains fully occupied and the County Council has recently proposed 3 extra pitches at this site. The private site at Hatton has had spaces on it but the owners have indicated a preference to retain the site available for his immediate family rather than offer the site to the wider travelling community as the permission for the site allows.

In conclusion on the issue of Government advice, there appears to be an on-going need for sites in the administrative area. The provision of private sites is encouraged by the advice and in the absence of suitable sites within the Local Plan, it would be difficult to refuse the current application on the basis of the criteria based policies referred to above. This advice is considered to carry significant weight in determining the application.

The applicants have drawn attention to the previous appeal decision, which confirmed the use of the smaller site for use by the gypsy community. The proposed site is some three or four times larger than the original and has been enclosed by walls. (As stated by the applicant, the walls may be construed as permitted development.) The proposals would limit the occupation of the site to 3 families and the number of caravans could be limited in the way suggested above. An additional condition limiting the use of the site to the gypsy community is also recommended. A landscaping scheme could also be required to help to soften the impact of the site from the canal as well as that of the wall.

Access to the site is not an issue for the Highways Agency provided the occupation of the site is limited in the manner suggested by the applicant. It would be difficult to sustain an objection on highway safety grounds in the absence of support from the Highways Agency.

The same can be said about the impact on the conservation area and listed buildings. The arguments were rehearsed at the last hearing into the use of the land and were dismissed by the Inspector. Support for this as a reason for refusal would also therefore be difficult.

In the light of the above and the Government advice, the following recommendation is considered appropriate.

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

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of five years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.  
Reason: In the interests of the appearance of the area.
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.
4. This permission does not authorise the use of the land as a caravan site by any persons other than gypsies as defined by Section 24(8) of the Caravan Sites and Control of Development Act 1960 as amended.  
Reason: In order to retain the site available to the gypsy community in the interests of maintaining a range of sites for use by the travelling community.
5. The use of the amenity block shall be limited to the occupiers of the site and their friends and relatives and shall not be used as a separate unit of accommodation.  
Reason: The block contains facilities that may allow for its separate occupation, the Local Planning Authority accepts the need for facilities on the site but seeks to make it clear that separate individual occupation of the site is not authorised by this permission.
6. No more than 6 caravans shall be sited on the site as defined on the plan accompanying your letter dated 11 January 2004; no more than three of those caravans shall be static caravans and no more than three families shall occupy the site at any one time.  
Reason: To limit the potential access of vehicle towing caravans from the adjacent A38 in the interests of highway safety.

7. 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.

08/02/2005

**Item** 1.5**Reg. No.** 9/2004/1452/FH**Applicant:**

Mr D Robson  
 12 Penkridge Road  
 Church Gresley  
 Swadlincote  
 Derbyshire

**Agent:**

W Haywood  
 15 Queen Victoria Drive  
 Swadlincote  
 Derbyshire  
 DE110LA

**Proposal:** The erection of a two storey extension at 12 Penkridge Road  
 Church Gresley Swadlincote

**Ward:** Gresley

**Valid Date:** 04/11/2004

**Site Description**

The site is a semi-detached house located within an immediate area of semi-detached properties, but opposite to an area of detached properties. The house is sited at angle to Penkridge Road.

**Proposal**

The application proposes a two-storey flank extension for the whole depth of the house, with the front corner thereof extending to the highway boundary.

**Planning History**

The property lies within a residential development approved in 1998. There have been no previous alterations or extensions to the property.

**Responses to Consultations**

The County Highway Authority has requested that certain conditions are attached to any permission, to prevent garage doors opening over the highway and to preserve the structural integrity of the highway.

**Responses to Publicity**

None received.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: N/A

Local Plan: HP13

Emerging Local Plan: ENV21

## Planning Considerations

The main issue central to the determination of this application is impact of the proposal on the amenities of the occupiers of No.14 Penkridge Road.

## Planning Assessment

The house at 14 Penkridge Road is sited at right angled to the application property and is approximately 1.5 metres higher. The Council's SPG on extensions seeks to protect windows in neighbouring dwellings from overshadowing, by ensuring that two storey extensions do not breach the minimum distance requirements along a 45° line drawn from the centre of the nearest ground floor primary window of the neighbouring property. The nearest point of the proposed extension (its rear corner) would be approximately 9.3 metres from the centre of the nearest ground floor primary window of No.14. This amounts to a shortfall in minimum standards of approximately 2.7 metres. The affected window at No.14 already suffers somewhat from the existence of a shed within its curtilage and 1.8 metre high fencing, both in the same general direction as the proposal. The affected window benefits however from an otherwise uninterrupted outlook, and particularly from its position elevated some 1.5 metres above the level of the application site.

It is therefore considered that the window would not suffer from material loss of amenity if the proposal were built. Accordingly a case for refusal is considered to be unjustified. No objection has been received from the occupiers of No.14 Penkridge Road.

## Recommendation

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

1. The development permitted shall be begun before the expiration of five years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Unless otherwise agreed in writing by the Local Planning Authority no doors shall be fitted to the proposed garage.  
Reason: In the interests of highway safety.
4. No part of the development hereby permitted and including the foundations thereof, shall be located within, or affect the structural integrity of the highway.  
Reason: In the interests of highway safety.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the garage accommodation/parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

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

Informatives:

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

08/02/2005

**Item** 1.6**Reg. No.** 9/2004/1472/U**Applicant:**  
Mr Leo Smith  
C/O Agent**Agent:**  
Mrs Siobhan Spencer  
Derbyshire Gypsy Liaison Group  
Office 3 New Street  
Matlock  
Derbyshire  
DE4 3FE**Proposal:** The formation of a small Romany gypsy site for five caravans  
at Land To The North Side Of Uttoxeter Road Hilton Derby**Ward:** Hilton**Valid Date:** 08/11/2004**Site Description**

The site comprises a level area of land off Uttoxeter Road Hilton (in the Parish of Hoon). The site is enclosed by fences with hedges to the east and west boundaries beyond the fences. The fence on the north boundary has a drainage ditch beyond it and a hedge on the other side of the ditch. The landowner under permitted development rights has erected most of the fences since the site was occupied.

**Proposal**

As set out above with the inclusion of a facilities block. The block would contain a sitting area kitchen, wash and toilet facilities.

**Applicants' supporting information**

The applicant has been confirmed as a gypsy who has resorted or resided in the area. He has camped on illegal sites elsewhere and has been evicted from them (verification is available if required).

Additional information has been submitted that draws attention to the draft of the latest government circular. It is stated that this draft advice has been accepted as a material consideration in recent appeals. The thrust of the advice is that Local Authorities should carry out a full survey of the needs of the gypsy community for accommodation in their areas and then make provision to meet that need in policies that should be developed through the Local Development Framework. It is not acceptable for Authorities to merely have criteria based policies to determine individual applications. It is acknowledged by Government that this approach results in the vast majority of proposals being rejected by Local Planning Authorities.



The applicant has also submitted a summary of a report prepared for the Government by Sheffield Hallam University relating to the health of the travelling community. The information is available for inspection on the file but it says that there is suspicion on the part of the travelling community and that the service providers are often unaware of the needs of the community. There are difficulties with communication between the community and service workers. Generally the health of the community is poorer than the settled community partly because the travelling community prefers to be self-reliant and is reluctant to seek help from the health service.

### **Planning History**

Permission was granted in 1998 for the formation of an access to serve horse grazing on the land but this was not implemented.

### **Responses to Consultations**

Hilton Parish Council objects to the development on the following grounds: -

- a) The site lies outside the village framework as set out in the local plan and is not in keeping with the surrounding area and environment, nor with the emerging Village Plan.
- b) There is insufficient detail to allow the application to be determined.
- c) There is no access to be provided according to the forms but this is not the case, nor is the statement correct in stating that there was a previous vehicular access, there has only been pedestrian access to the land.
- d) Previous applications for access to the site and for a dwelling have been refused.
- e) There is no mains system to take foul water from the site as stated on the form [*– the applicants have since amended the application to propose an on-site system to drain the foul water.*]
- f) The access is in a dangerous position being onto a de-restricted section of road close to the Marston Lane Junction.
- g) Another purpose built site exists on the A516 at Uttoxeter Road Hatton.

The County Highway Authority has no objection to the proposal subject to vehicle parking and manoeuvring space being provided and the access being provided with a proper highway crossing.

The Head of Environmental Health has no objection.

### **Responses to Publicity**

A total of 7 letters and E-mails from 7 households have been received raising the following additional objections to those made by the Parish Council: -

- a) There would be additional noise and disturbance.
- b) Another Romany site would create an imbalance in provision in the area and may lead to the attraction of other Romany families.
- c) The land regularly floods and to allow this development would add to the problem.
- d) The site would be unsightly and rubbish. The site would need to be monitored on a regular basis to ensure that it is kept clean and tidy.
- e) The difficulty in future enforcement against such sites.
- f) There would be a real risk of an increase in crime in the area.

- g) The reputation of the village would be damaged.
- h) The site is not large enough to accommodate all the caravans and the green areas shown on the plans.
- i) The applicant has ignored advice from the gypsy council and has carried out work to the site.
- j) One of the dogs on site attacked a resident; this could be an indication of things to come.
- k) There would be a greater risk of accidents if the site were permitted.
- l) The gypsies have been allowed to stay on the land but have started to carry out works to the land, this should not happen until planning permission is granted.
- m) The applicant has stated that he would prefer a bungalow on the site but had been told that there was no chance but if he got permission for the caravans first, it would increase the chance of getting a permission for a permanent dwelling.
- n) Property is bound to be devalued although it is recognised that this is not a planning issue but the Council ought to be aware if the site were permitted applications would be made to reduce Council tax bands resulting in loss of revenues to the Authority. If the site were not permitted, a resident would purchase the site at an agreed price so that Mr Smith suffered no financial loss and could find a more suitable alternative location.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 8.

Local Plan: Environment Policy 1, Housing Policy 15.

Emerging Local Plan: Policies ENV 7 & H 11

### **Planning Considerations**

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

- Government Advice of the Provision of Gypsy Sites and the weight to be attached to it
- The Development Plan
- The impact of the development on the character and appearance of the area,
- The access to the site

### **Planning Assessment**

Current Government advice is contained in Circular 1/94 and subsequent amendments all of which are to be consolidated and expanded upon in new circular that is currently out for consultation. The trust of the current circular is that Council's should continue to make provision for gypsy sites but that private provision is also encouraged.

This basic advice has been expanded upon in various statements since the publication of the circular. In summary, it is not acceptable for Authorities to rely solely on criteria based policies unless it can be demonstrated that a full assessment of the needs of the travelling community has been undertaken. Where it is demonstrated that site provision is necessary, then the Authorities should make provision for such sites in its Local Plan.

The draft circular, that will be the subject of a report to the Environment and Development Services Committee in due course, sets out how the Government expects Authorities to deal with applications prior to the completion of the local housing needs assessment. It expects that

sources of information be made available such as monitoring incitements of unauthorised encampments, the status of existing authorised private sites, the number and outcomes of planning applications, the levels of occupancy on private and public sites and the twice yearly count undertaken by the ODPM. If an application is to be refused then this information should be provided as part of the appeal documentation.

This Authority's criteria based policy has been challenged on a number of occasions in the past couple of years and has been found to be wanting in terms of the lack of any knowledge about the overall requirements of the travelling community. Thus, notwithstanding the objections that have been made to applications, the proposals of the community have been upheld at appeal in the vast majority of cases. Accordingly, if the Authority wishes to oppose this proposal, it would need to be satisfied that the provisions for the travelling community are adequate especially in the light of the latest Draft Circulars advice on steps to be taken to determine application in the interim period.

As a first stage in understanding the needs of the travelling community, the Authority commissioned a report on the existing facilities in the area. It identified that the community was generally satisfied with the sites where interviews took place but also identified that the site at Park Road Overseal is not available to the travelling community. It also showed that the turnover at the well-established sites was very small because, once based in the area, its attractiveness, low crime rates and other factors make staying in South Derbyshire a priority. The respondents generally had no conflict with the resident community and the majority had been in their existing site in excess of one year, 35% having been in residence for over 5 years.

In terms of the bi-annual count, this continues to reveal that unauthorised encampment take place within the administrative area. This is emphasised by recent experiences in the Hilton, Hatton and Linton areas where land was occupied but the occupiers were moved on.

The site at Church Broughton (Woodyard Lane) remains fully occupied and the County Council has recently proposed 3 extra pitches at this site. The private site at Hatton the has had spaces but the owners have indicated a preference to retain the site available for his immediate family rather than offer the site to the wider travelling community as the permission for the site allows.

In conclusion on the issue of Government advice, there appears to be an on-going need for sites in the administrative area. The provision of private sites is encouraged by the advice and in the absence of suitable sites within the Local Plan it would be difficult to refute the application on the basis of the criteria based policies referred to above.

In looking at the criteria in the Development Plan and assessing the suitability of the site, the following are considered relevant – the site is well related to the village in terms of access to community services, access is capable from the main road that is now a C class road of lesser significance than it previously had, although it will continue to provide access to the major development taking place at Hilton.

A neighbour has drawn attention to the potential, and in the case of an alleged attack by a dog, actual disturbance to the amenity of the occupiers of the adjacent house. The occupiers have made a planning application for a dwelling on the land between the site and the house. This is subject of a separate report to the Committee (application no. 9/2004/1544). The house in which the objector's live is not immediately adjacent to the application site and does not directly overlook it. It is considered that a reason for refusal based on a material disturbance to adjacent residential property would be difficult to sustain at appeal for the above reason.

The next criterion is the whether a site is capable of sympathetic assimilation into its surroundings. The landform hereabouts is flat and to the north the A50 is raised above the general ground levels. Beyond that the ground starts to rise above the floor of the Dove Valley. Immediate natural screening is not an achievable objective in the short term. The applicant has discussed the options with officers and it has been suggested that if permission were granted, then a traditional hedge with occasional tree within it would help to mitigate the impact of the proposal. The applicant has erected fencing around the site as described above. The fencing is permitted development as it falls below the height limits imposed in the General Permitted Development Order.

Objectors have referred to the possibility of the site flooding. The site lies outside any main river flood zones and as such is not subject to a consultation with the Environment Agency. There is a drainage ditch along the north boundary of the site but the new owner of the site has recently cleared this out. This is not to say the land would not flood, simply that it is not land identified by the Environment Agency as at risk from flooding (land on the opposite side of Uttoxeter Road is in the area of risk).

The Committee should be aware that if it decides that the application should be refused for any of the potential reasons set out above, then those reasons can be set aside at appeal if the Authority is unable to demonstrate that there are sufficient sites in the administrative area to meet the needs of the travelling community notwithstanding the strength of the environmental arguments against the proposal.

On balance, the site is well related to the settlement, it would not cause material disturbance to residential property, over time it would be capable of assimilation into its surroundings and adequate pedestrian and vehicular access could be provided.

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

### **Recommendation**

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

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

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

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

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

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.

4. This permission does not authorise the use of the land as a caravan site by any persons other than gypsies as defined by Section 24(8) of the Caravan Sites and Control of Development Act 1960 as amended.

Reason: In order to retain the site available to the gypsy community in the interests of maintaining a range of sites for use by the travelling community.

5. 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 septic tank shall be installed in accordance with the approved details before the development is first brought into use.

Reason: In the interests of pollution control.

6. A sample of both the roof tile and the brick for the amenity block shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

7. The use of the amenity block shall be limited to the occupiers of the site and their friends and relatives and shall not be used as a separate unit of accommodation.

Reason: The block contains facilities that may allow for its separate occupation, the Local Planning Authority accepts the need for facilities on the site but seeks to make it clear that separate individual occupation of the site is not authorised by this permission.

8. No development shall take place until details of a vehicular turning area within the site curtilage adequate to enable all vehicles to enter and leave the site in a forward direction have been submitted to the Local Planning Authority. The turning area as approved by the Local Planning Authority shall be laid out and hard surfaced accordingly prior to the first use of the development and be retained available for that purpose thereafter.

Reason: In the interests of highway safety.

9. Within 4 months of the date of this permission, the site shall be provided with a dropped kerb to the standard required by the County Highways Authority and approved by the Local Planning Authority.

Reason: In the interests of highway safety and to provide a suitable access to the site.

#### Informatives:

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

08/02/2005

**Item** 1.7**Reg. No.** 9/2004/1551/F**Applicant:**

Mr E Cunningham  
 5 Ashdale Close  
 Stapenhill  
 Burton Upon Trent  
 Staffordshire  
 DE15 9HN

**Agent:**

A J Architectural Services  
 41 Faraday Avenue  
 Stretton  
 Burton Upon Trent  
 Staffordshire  
 DE13 0FX

**Proposal:** The erection of a dental surgery at 4 Cherry Garth Hilton Derby**Ward:** Hilton**Valid Date:** 13/12/2004**Site Description**

The application site comprises the side garden of the dwelling. The access to the site would be from Derby Road and the site is bordered on three sides by hedges. The fourth open boundary is the one on the house side. The site is generally level and the house that abuts the site has a blank elevation looking towards the site. An existing terrace of properties lies across the road at right angles to Derby Road and a row of three new dwellings are in the course of construction to the east of the site.

**Proposal**

The proposal is as described above it would be a single storey building with 2 consulting rooms with a widened access to replace the existing field gate to be located at the west end of the site. It would be set slightly to the rear of the existing dwelling 8/9 parking spaces are proposed.

**Planning History**

Permission was refused for the erection of a dwelling here in the mid 1980's but a subsequent application for a house was permitted in 1996.

**Responses to Consultations**

The views of Hilton Parish Council will be reported at the meeting if available.

The County Highway Authority has no objection subject to a widened access and matters of pedestrian intervisibility being addressed through conditions

The Head of Environmental Health has no objection subject to a restriction of opening hour to 0830 to 1730 Monday to Friday and 0900 to 1300 on Saturdays. There shall be no working on Sundays or Bank and Public Holidays.

### **Responses to Publicity**

Two letters have been received objecting/commenting on the proposal in the following terms: -

- a) A hedge or fence between the surgery and 4 Cherry Garth should be provided to prevent any access by traffic onto Cherry Garth itself.
- b) Although standards require 4 spaces per consulting room, this is insufficient and it is likely that cars would be parked on Derby Road where they would be in conflict with the buses at the bus stop that has recently been moved closer to the proposed access. This could become an accident black spot as traffic tries to exit or enter the site find their views obstructed at a point where traffic can be travelling at 40mph.
- c) The car park should be located away from the boundary with 13 Derby Road as the fumes will build up in that garden where children play and would be unacceptable and irresponsible.
- d) There is a high water table in this area and it is believed that a ground water well may emerge in this part of the village. Any disturbance to land levels or watercourses become blocked may have implications for this part of the village
- e) It is wrong to re-introduce a commercial use into this part of the village given that the Hilton Garage site redevelopment has confirmed the residential status of this part of the village.
- f) There are numerous new accesses in this part of the village and another one would add to the potential for accidents

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: None

Local Plan: Community Facilities Policy 1

Emerging Local Plan: Policy C1 & ENV 21

### **Planning Considerations**

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

- The Development Plan
- The access to the site
- The impact on the area.

### **Planning Assessment**

The development plan makes provision for this type of facility provided they are well related to the community they will serve, incorporate measures to reduce the potential impact arising from noise or additional traffic and are of an appropriate design.

The design of the building, whilst not anything out of the ordinary, is of an acceptable scale and with the use of appropriate materials would not unduly impact on the character or appearance of

the area. It is anticipated that the proposal would not give rise to any undue noise in itself and the imposition of a condition restricting the hours of operation would ensure that traffic noise did not occur.

The County Highway Authority has not raised any objection to the improvement of the access onto Derby Road provided that there are splays provided and it is widened to allow two vehicles to pass. This can be achieved through the imposition of conditions and sufficient land exists to provide for the necessary works.

The comments of the neighbour about the use of Cherry Garth are noted and a condition is recommended to ensure that there is a physical barrier between the site and the existing house. Otherwise the comings and goings are not considered such that there would be an adverse impact on the character of the area.

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

### **Recommendation**

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

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

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

2. No part of the development shall be carried out until precise details and samples of the facing materials to be used in the construction of the external walls and roof of the building have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the locality generally.

3. Notwithstanding the submitted details of an access to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall make provision for an increase in the width of the access to allow two vehicles to pass and the provision of pedestrian intervisibility splays. The scheme shall also make provision for the provision of visibility sight lines extending from a point 2 metres back from the carriageway edge to the extremities of the site frontage. Provision shall be made in the scheme either to remove the frontage hedge or set it back behind the sight line or for the existing hedge to be lowered to a height of 1.0 metre above the adjoining carriageway level. Thereafter the sightline shall then be maintained free from any obstruction above 1.0 metre high.

Reason: In the interests of highway safety.

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

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



5. 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.

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

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

7. The use hereby permitted shall not be open to patients outside the following times: 0830 to 1730 Monday to Friday and 0900 to 1300 on Saturdays. The practice shall not be open to patients on Sundays or Bank and Public Holidays.

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

**Informatives:**

The County Highway Authority advises that a building line prescribed under the 1925 Road Improvement Act affects the land. This would need to be revoked by a resolution of the County Council prior to any development taking place. An administration fee of £100 is payable irrespective of whether that application is successful.

08/02/2005

**Item** 1.8**Reg. No.** 9/2004/1630/FH**Applicant:**

Mrs D Bircher  
 2 Cloverdale  
 Midway  
 Swadlincote  
 Derbyshire  
 DE11 0XL

**Agent:**

David Bown  
 7 Ash View Close  
 Etwall  
 Derby  
 DE65 6JY

**Proposal:** The erection of a conservatory at 2 Cloverdale Midway  
 Swadlincote

**Ward:** Midway

**Valid Date:** 20/12/2004

The application is brought before Committee, as the applicant is a Council employee.

**Site Description**

The property is a detached dwelling on a corner plot within a residential cul-de-sac.

**Proposal**

The proposal is to erect a conservatory to the rear of the property.

**Planning History**

Planning approval was given and implemented for an attached garage to the side of the property in 1992 and for the erection of a chimney in 1986. There have been no subsequent alterations.

**Responses to Consultations**

None received.

**Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: n/a  
 Local Plan: Housing Policy 13  
 Emerging Local Plan: Policy ENV21

## **Planning Considerations**

The main issue central to the determination of this application is the impact of the proposed conservatory on the amenity of the occupiers of adjoining dwellings.

## **Planning Assessment**

The proposed conservatory is situated on the rear of No 2 Cloverdale overlooking the rear of No 8 Haywain Lane which has two primary windows on this elevation. No 10 Haywain Lane has a relatively blank side elevation facing towards the rear of No 2. The existing 1.8 metre fencing largely obscures the view to both properties from the rear of No 2 and the proposal is not considered to be detrimental to the amenity of occupiers of the adjoining dwellings.

The proposal complies with the Council's Supplementary Planning Guidance and with current development plan policy.

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

## **Recommendation**

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

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

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

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

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

## **Informatives:**

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

08/02/2005

**Item** 1.9**Reg. No.** 9/2005/0005/F**Applicant:**

Mr A J Bibby  
 51 Maxtock Avenue  
 Lichfield  
 Staffordshire  
 WS13 6PE

**Agent:**

Mr N MacFarlane  
 Braemar  
 Richmond Avenue  
 Burscough  
 Lancs  
 L40 7RD

**Proposal:** The demolition of the existing dwelling and the erection of a new dwelling at 1 Littleholme Coton Park Linton

**Ward:** Linton

**Valid Date:** 04/01/2005

**Site Description**

The site is located in the countryside to the west of Coton Park. A small, long and narrow semi-detached bungalow is currently located on the site set in a large plot of land extending to the north and west of the dwelling. The bungalow is located immediately to the rear of the unmade road which leads from Coton Park to this small grouping of dwellings and an engineering works is located to the west of the application site. The directly adjoining dwelling is a single storey property and across the unmade road are two, two-storey dwellings that have recently been constructed one as a replacement dwelling and the other as an agricultural workers dwelling.

**Proposal**

The application proposes the demolition of the existing bungalow and its replacement with a four bedroom house designed in a rustic vernacular style with the first floor largely utilising the roof space. The proposed dwelling is not located on the footprint of the existing and has been sited to the rear of the plot away from the road and is sited at right angles to the road with the main elevations facing east and west. A triple garage is proposed in the north eastern corner of the site. The dwelling would face the garage across an area of driveway with the garden area located to the rear and side (west and south).

**Applicants' supporting information**

- a) It is submitted that the proposed development should be considered favourably in the context of Policy ENV 21 of the revised deposit draft South Derbyshire local plan wherein it states that planning permission will be granted for the replacement of existing dwellings outside settlements where the new dwelling improves the local area. This can be achieved where the design and materials are in keeping with the character of the local area.

- b) The existing property is evidently in a poor state of repair, the structure of the building, being an ex first world war 'hut' is now long past its expected natural life. The existing property being of a wooden lap construction and tin roof is not of a design that contributes positively to the character and appearance of the surrounding area.
- c) The proposed dwelling is a two storey construction in red, blue/ black brick with a pitched plain blue tile roof. The design of the dwelling together with its materials of construction and its siting achieves a scheme which is substantially better in terms of its appearance than the existing dwelling. The development can be undertaken without disrupting any important views into or out of the site.
- d) Following discussions with the planning department considerable attention has been paid to the design and siting of the new dwelling. It will be evident from the drawings that the opportunity has been taken to site the dwelling further into the site and by rotating the footprint by 90 degrees substantially reduce the impact of the dwelling on the existing environment. The opportunity has been taken to form a new access to the property thereby preserving the existing entrance into the rear of the site.
- e) It is submitted that in the manner proposed, the siting of the dwelling will present an unimposing dwelling similar to that which is compatible with that which is already on the application site and will harmonise appropriately with the recently constructed dwellings in the immediate vicinity.
- f) Within the proposed dwelling all windows and doors are to be constructed so as to give the appearance of timber. All rainwater goods are to be appropriate to the area. These will blend appropriately with the character of dwellings to be found within the vicinity.
- g) Although the replacement dwelling will be of modern construction it will, nevertheless, incorporate traditional design features and materials so as to ensure that it is compatible and respectful with other dwellings to be found in the locality.
- h) In conclusion, it is submitted that the replacement dwelling, by virtue of its design, siting and proposed materials of construction, presents a new dwelling. The design of the house will substantially improve the area and its surroundings and will begin to reclaim what has been a derelict site for some time.

### **Planning History**

An application for a replacement dwelling was refused at the end of last year on grounds of design.

### **Responses to Consultations**

The parish council considers that the planning application proposal is too grand and not in keeping with its surroundings. They do not agree that the building will be sited in the original place.

The County Highway Authority has no objection on the basis that the proposal is for the direct replacement of an existing dwelling.

The Head of Environmental Health has recommended a condition requiring a site investigation to check for site contamination to implement appropriate remediation.

### **Responses to Publicity**

None received.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan:

Local Plan: Housing Policy 8

Emerging Local Plan: Policies H1 and ENV 21

## Planning Considerations

The main issues central to the determination of this application are the footprint, bulk and scale of the replacement dwelling in relation to the existing property and the impact on the character of the countryside.

## Planning Assessment

The supporting text to Policy H1 of the Draft Local Plan states that replacement dwellings in rural areas will be considered in relation to the likely visual and amenity impacts on the character of the countryside resulting from their siting and design. Policy ENV 21 states that replacement dwellings should reflect the footprint, bulk and scale of the original property.

Notwithstanding the applicant's agents' comments, the proposed dwelling could not be said to be of a similar bulk and scale to that of the original, the existing bungalow is only single storey and of a long, narrow profile. Although the proposed dwelling is significantly larger it makes use of the roofspace to provide first floor rooms and therefore in reality is one and a half storey rather than two storey. The proposed dwelling is sited to the rear of the plot and is therefore not on the same physical footprint as the existing property. However the dwelling has been sited at right angles to the road and will therefore be less likely to appear overly prominent in the landscape. In view of its orientation and design it is not considered that the proposal will have a significant detrimental impact on the character of the countryside.

The existing bungalow is not in keeping with its surroundings; it is constructed of timber boarding and metal sheet roofing and is in a poor state of repair. The proposed dwelling, on the other hand, appears to have been designed with the rural South Derbyshire vernacular in mind and would be constructed in materials far more sympathetic to its countryside location and in keeping with the other new dwellings recently constructed across the road. In view of the improved design and appearance of the replacement dwelling it is considered that the increase in the footprint, bulk and scale of the building is acceptable.

## Recommendation

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

1. The development permitted shall be begun before the expiration of five years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.

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

3. No work shall take place on the site until an adequate site investigation and assessment of contamination and the measures to be taken to avoid risk to people or the environment has been undertaken and submitted to the Local Planning Authority, and the development shall incorporate any measures shown in that assessment to be necessary for the removal or containment of any contaminated material when the site is developed. The site investigation will include:

1. A desktop study of the area of the proposed development.
2. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
3. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at the site.
4. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

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

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

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

5. 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.

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

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

7. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

### Informatives:

In connection with condition 3 above the site investigation shall include the following:

- Details of an overview of the initial walkover survey to include the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- Detailed on site sampling to identify any contamination.
- The locations of any contaminated zones within the site including details of more extensive and geographically wider investigation of these zones. This will provide a more reliable picture of the distribution of contamination on the site and reduce the risk of failing to discover a hot spot of contamination.
- An assessment of any off site impacts such as the effect on watercourses etc.
- A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- Plan of action if further contamination is identified during remediation.
- Details of the measures to verify that the contaminant has been removed to an acceptable level. The identification as to whether a long term monitoring and maintenance programme is required, if so, details of the plans.
- Details of the long and short term risk to human health including the construction phase and post development.
- Details of the British Standards or other guidelines used in both the assessment and remediation measures proposed.

Further guidance can be obtained from the following;

1. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
2. Investigation of Potentially Contaminated Lane Sites - Code of Practice, BSI 10175 2001.
3. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.



08/02/2005

**Item** 2.1**Reg. No.** 9/2004/1544/O**Applicant:**

Mr Michael Plimmer  
 Moorend Cottage  
 Uttoxeter Road  
 Hilton  
 Derbyshire  
 DE65 5FZ

**Agent:**

Mr Michael Plimmer  
 Moorend Cottage  
 Uttoxeter Road  
 Hilton  
 Derbyshire  
 DE65 5FZ

**Proposal:** Outline application (all matters reserved except for means of access and siting) for one dwelling at Moorend Uttoxeter Road Hilton Derby

**Ward:** Hilton

**Valid Date:** 30/11/2004

This application is brought to Committee at the request of Councillor Walton

**Site Description**

The site comprises the side garden of the dwelling and is enclosed on the Uttoxeter Road side by a low earth bund and on the western side by a hedge. There is no defined northern boundary as the application plan indicates that part of the land to the north of the site would be retained with the original dwelling. The eastern boundary is the common boundary with the house and has a garage and out building on part of its length. Access to the site would be from Uttoxeter Road. The site is generally level. To the east of the site is a group of caravans, the retention of which is the subject of a separate report to this Committee (application no. 9/2004/1472).

**Planning History**

Planning permission for the extension of the dwelling was granted in 1989 and the erection of the workshops in the curtilage was permitted in 1993.

**Responses to Consultations**

The site lies in the parish of Marston and Hoon from which no response has been received. It also lies adjacent to Hilton Parish that has requested a consultation on this application. No response had been received when this report was prepared; if a response is received it will be reported at the meeting.

The County Highway Authority has accepted that the development would be acceptable from a highway point of view provided that suitable vehicle parking and turning space can be provided within the curtilage. A prescribed building line relating to highway improvements affects the

site and this should be revoked through the County Highway Authority if permission were granted.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 7,

Local Plan: Environment Policy 1, Housing Policy 8,

Emerging Local Plan: Policy ENV 7.

### **Planning Considerations**

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

- The development plan
- The impact on the countryside
- The access to the site

### **Planning Assessment**

Development Plan policies for the countryside, the site lies in the countryside dictates that new dwellings should be necessary for the operation of an established rural business. There is no such justification for this dwelling and as such the proposal is contrary to the development plan.

In terms of its impact on the countryside, it would represent an unnecessary intrusion into the countryside to the detriment of the rural character of the area.

The access could be provided in safe manner and all other matters are reserved for subsequent approval, the issue of parking and turning space could be dealt with at that time, plenty of space is available within the application site.

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

### **Recommendation**

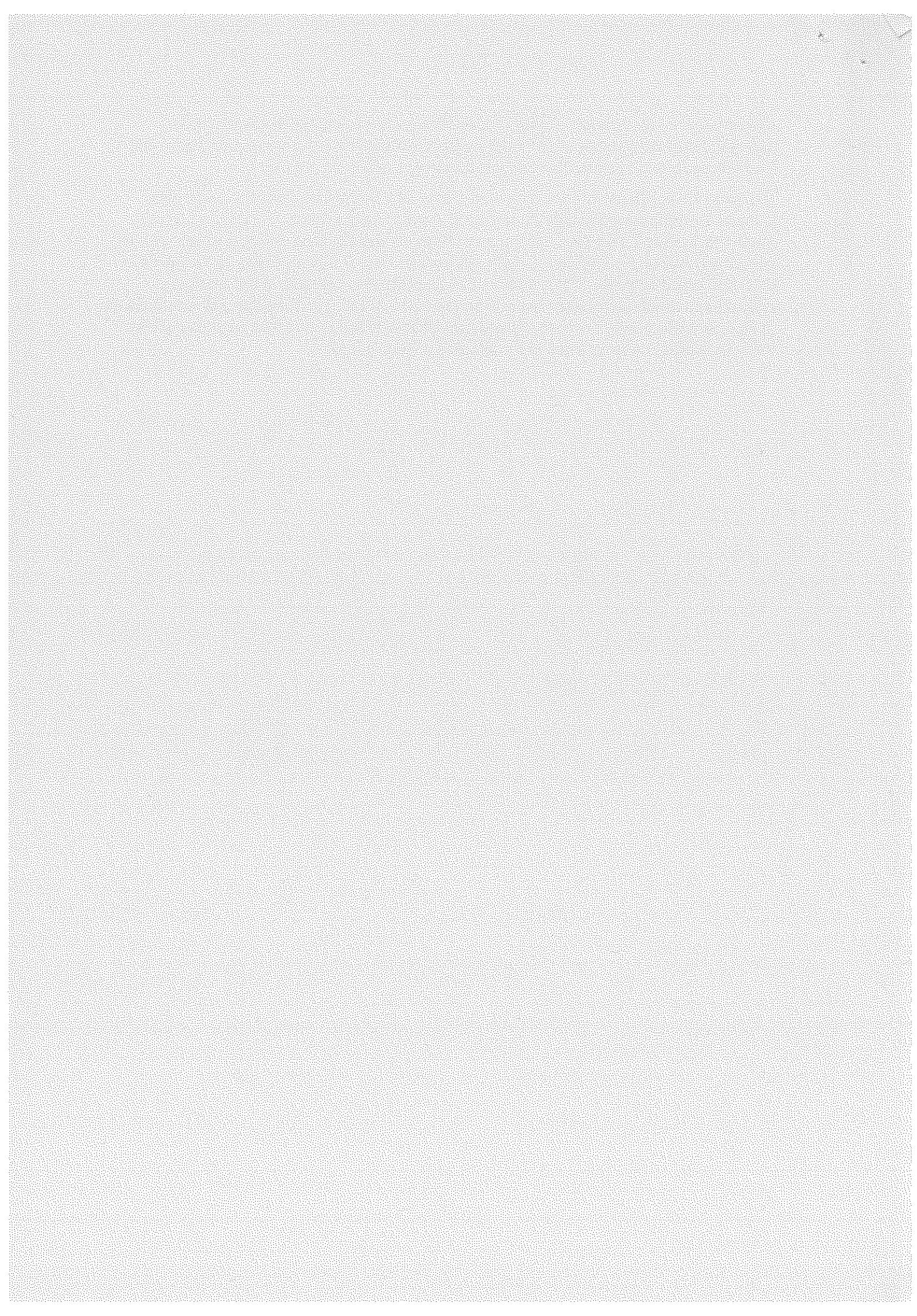
**REFUSE** permission for the following reasons:

1. General Development Strategy Policies 1 & 4 and Housing Policy 6 of the adopted Structure Plan are part of a framework for the control of development in the County. They seek to implement the Government's strategy of directing development to core settlements where there is a wide range of facilities available that meet the needs of the community and limiting development in the countryside. South Derbyshire District Council has drawn up a draft replacement Local Plan to implement those strategic policies wherein Policies H1 & ENV 7 seek to encourage housing development on suitable previously developed sites in urban areas or 'serviced villages.' The hierarchy of settlements includes relatively minor settlements that host a range of services and facilities, but not areas outside of them such as the application site and its surroundings. In such areas, the provisions of Policy ENV 7 apply where development is only permitted where there is a specific and proven need for a dwelling, this does not apply in this case. Development in locations outside the specified settlements would not be sustainable and



contrary to the Government's objectives in relation to sustainable development as expressed in latest version of Planning Policy Guidance Note 3, the adopted Derby and Derbyshire Joint Structure Plan and the emerging Local Plan policies.

2. The proposal conflicts with the approved Derby and Derbyshire Joint Structure Plan General Development Strategy Policies 3 & 4 and Housing Policy 6 and the adopted South Derbyshire Local Plan Environment Policy 1 and Housing Policy 8 which seek to permit residential development outside settlements only if it is necessary to the operation of a rural based activity. These policy objectives are also repeated in the emerging replacement South Derbyshire Local Plan at ENV 7 & H1. The development would result in an unnecessary intrusion into the countryside to the detriment of the rural character of the area, which is unwarranted in the absence of such a need.



## PROSECUTION UPDATE REPORT

Prosecution of David Wilson Homes for unauthorised damage to trees on former railway land at end of Sorrel Drive, Woodville (TPO 187)

*On 1<sup>st</sup> June 2004 Members resolved to prosecute due to the severity of the offence which involved damage to tree branches, oil deposited around the base of some trees, levels raised in close proximity to the trees, submersion of tree roots in standing water and a trench dug next to the trees.*

A trial was held on 6<sup>th</sup> December 2004 as the defendants had pleaded 'not guilty' to the charge contained in the Summons. The Magistrates found that the defendant had wilfully damaged the protected trees in that they had imported material onto the site, which had exacerbated the flooding around the tree bases and this had not been improved by the compaction of the soil by vehicles. Also the Magistrates found that the defendants' had been responsible for the slashing damage to the trees but the Magistrates did not consider that they were responsible for the oil and bitumen deposited around the tree bases.

The Magistrates came to the conclusion that the trees were likely to have been destroyed by the damage (caused in February 2004), had it not been for the remedial work undertaken by the company in June 2004. The Magistrates said they acknowledged the company had carried out the remedial work and that this would be taken into account in mitigation.

Therefore the Magistrates found the defendant **guilty** of the offence and fined them £3000 plus £1332 costs, the total sum was to be paid within 14 days of the date of the trial

