

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

12. Any other reasonable conditions recommended by the County Highway Authority.

Reason: In the interests of highway safety.

Informatives:

This permission is subject to the conditions and agreement under Section 106 of the Town and Country Planning Act 1990 attached to outline applications 9/2005/0410 and 9/2005/0411 .

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.

The boundary treatment to be submitted in pursuance of Condition 3 shall have particular regard to the following issues: the security of occupiers of plots with open land to the rear or rear access; the boundaries between communal areas and private areas for example the the parking area and the rear garden of plot 9; boundary treatment between the development and existing houses.

Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

Item 1.7

Reg. No. 9/2007/0060/F

Applicant:
South Derbyshire District Council
Civic way
Swadlincote
Derbyshire
DE11 0AH

Agent:
South Derbyshire District Council
Civic way
Swadlincote
Derbyshire
DE11 0AH

Proposal: The installation of replacement fence at the Cemetery
York Road Church Gresley Swadlincote

Ward: Gresley

Valid Date: 17/01/2007

Reason for committee determination

The Council is the applicant.

Site Description

The site comprises the western boundary to the cemetery that adjoins public footpath number 36.

Currently the boundary is marked in part by an existing wooden fence that is in disrepair and in part by a hedge.

Proposal

It is proposed to provide a new fence along the whole length of the boundary from Pennine Way Junior School to the rear gardens of existing houses that front York Road.

The new metal fence would be 1.4m high and would be painted black.

Planning History

There is no relevant planning history.

Responses to Consultations/Publicity

There has been no response to consultations/publicity.

9/2007/0060/F Cemetery

York Road
Church Gresley

CHURCH GRESLEY

THE SITE
↙

SWADLINCOTE

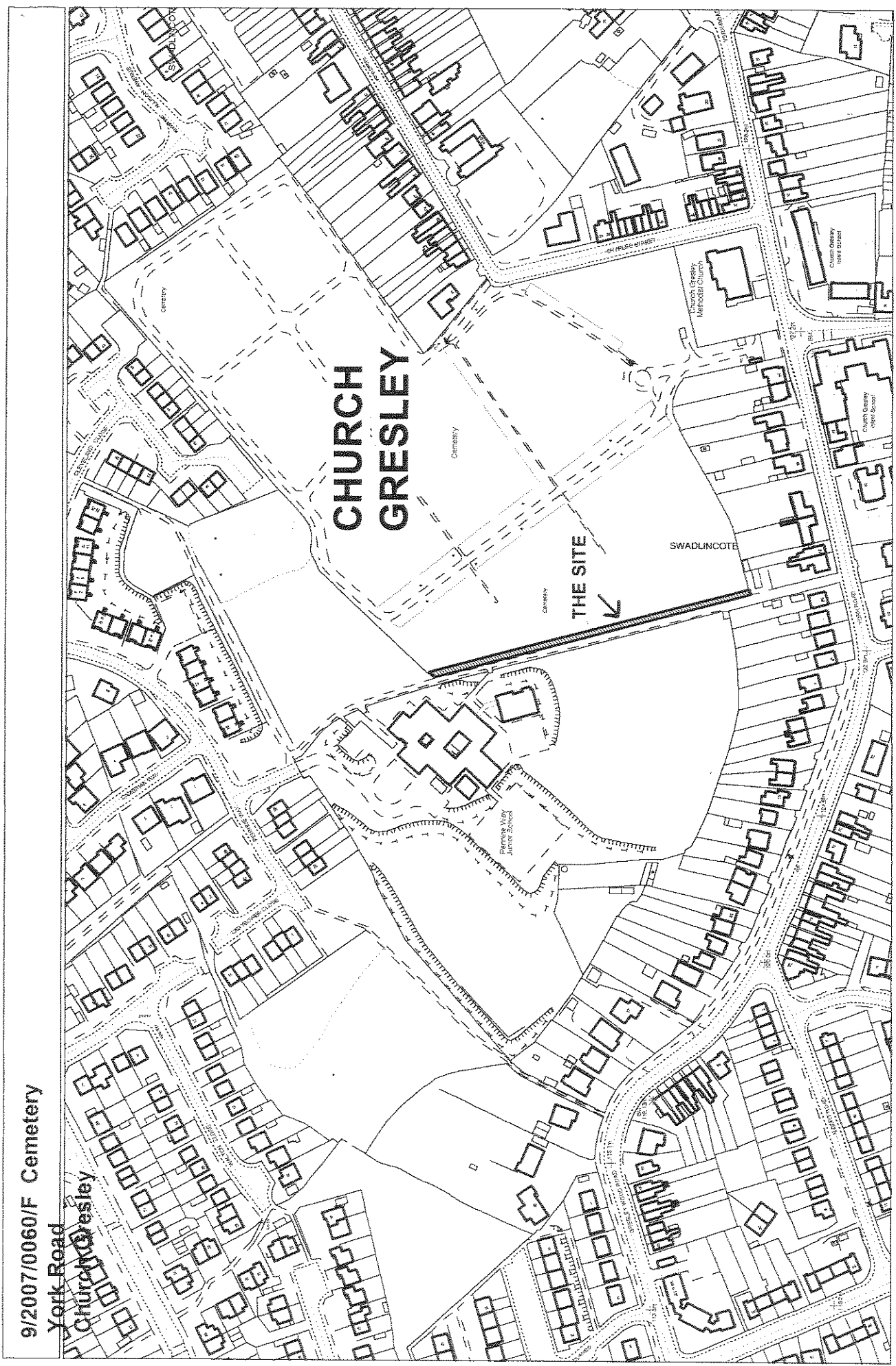


SOUTH DERBYSHIRE
DISTRICT COUNCIL
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE DE11 0AH

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Date Plotted 2/2/2007
Scale 1:2500

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Development Plan Policies

There is no relevant policy.

Planning Considerations

The main issue central to the determination of this application is the design and impact of the new fence.

Planning Assessment

The existing boundary between the public footpath and the cemetery is in very poor repair. In some places no physical boundary exists at all.

The proposal to construct a new boundary fence with black metal railings is appropriate for its position alongside the cemetery. At 1.4m high the fence would be acceptable in scale with the width of the footpath and in overall terms it is considered that the proposal would result in an improvement to the visual amenity of the locality. However an existing hedge grows alongside the majority of the wooden fence. This hedgerow, together with the one on the opposite side of the footpath provides a green corridor within the urban area that it is highly desirable to retain for its contribution to the visual amenity of the area and as a wildlife habitat. As such it is recommended that the hedge be retained.

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

A. Grant delegated powers to the Planning Services Manager to deal with any representations within the remainder of the consultation period;

B. Subject to A, **GRANT permission** subject the following conditions:

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

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

Informatives:

You are reminded that the public footpath adjoining this proposal should not be obstructed at any time during the course of the work.

The existing hedgerow alongside the proposed fence should be retained at a height of not less than 1m.

Item 2.1

Reg. No. 9/2006/0713/O

Applicant:
PP Developments
C/O Agent

Agent:
S. Briddon
Stefan Briddon
61 Wilmot Road
Swadlincote
Derbyshire
DE11 9BJ

Proposal: Outline application (all matters to be reserved except for siting and means of access) for the erection of 6 dwellings at 273 Woodville Road Hartshorne Swadlincote

Ward: Hartshorne/Ticknall

Valid Date: 12/06/2006

Reason for committee determination

Councillor Jones has requested this application be determined by the Committee on the grounds that local concern has been expressed about a particular issue.

Site Description

The site is triangular shaped and forms part of the garden land to the south side of 273 Woodville Road and fronts The Cutting. The rear gardens of neighbouring properties abut the northern boundary.

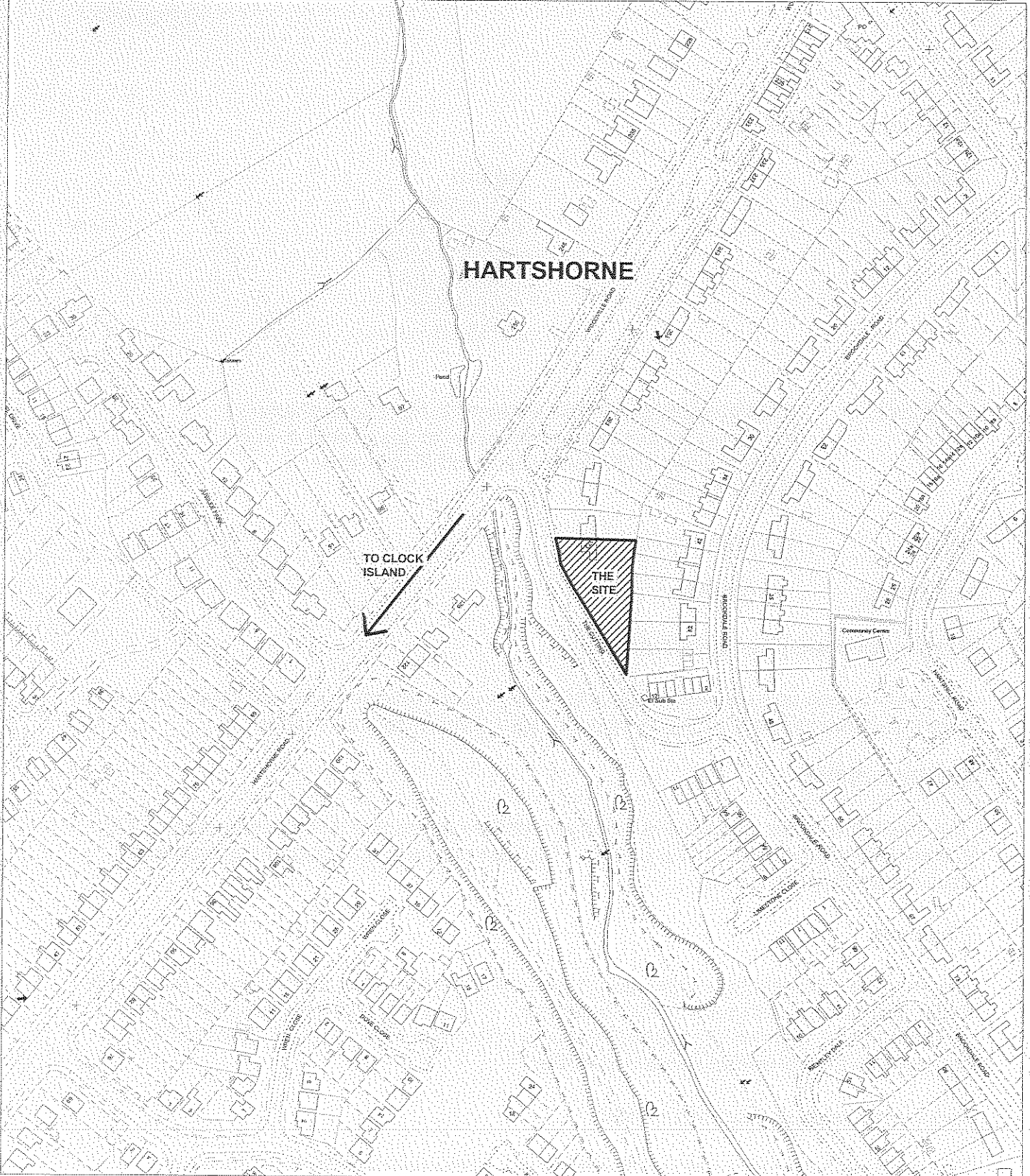
Proposal

It is proposed to erect six dwellings in three semi-detached pairs consisting of three with three bedrooms and three with four bedrooms. The accommodation would be provided on three floors, with the second floor occupying the roof void. Two off-street parking spaces would be provided for each dwelling.

Applicants' supporting information

The applicant's agent questions the robustness of the policies that seek financial contributions to community facilities. He states that the Inspector's Report to the now abandoned Local plan recommends a threshold of 10 dwellings before financial contributions are required. On this basis the applicant is not willing to comply with the request for the proposed financial contributions as the development only amounts to six dwellings.

9/2006/0713/O 273 Woodville Road
Hartshorne



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Scale 1:2500 Date Plotted 2/2/2007

Plot centred at 431896 319665

9/2006/0713/O 273 Woodville Road
Hartshorne



He states that his client as a gesture of good will is willing to offer a contribution in the region of £5,000.

He adds that "the current residual financial appraisal for the site, which we must not forget is situated on the Gosely Estate is currently estimated at best between £40-£50,000. This would mean the current level of financial contribution being requested would equate to over 50% of the land value, which even if there had been policy grounds for such a request, could not be seen as equitable i.e. being in excess of many ransom land type scenarios."

Responses to Consultations

The Highway Authority raises no objections subject to the provision of adequate visibility splays and parking.

The Primary Care Trust requests a contribution of £444 per dwelling.

The Education Authority requests a contribution of £23,336.

The Police Liaison Officer recommends gates to the side of the houses to prevent easy access to the rear.

Severn Trent Water raises no objections subject to satisfactory drainage of the development. It adds that public sewers cross the site.

Responses to Publicity

Three letters of objection (including one from the local neighbourhood watch) are summarised as follows:

- Parking on the road would be detrimental to highway safety.
- Loss of privacy to neighbours due to three storey height
- Noise disturbance during construction period.

Development Plan Policies

The relevant policies are:

RSS8: Policies 2 and 3

Joint Structure Plan: Housing Policy 3

Local Plan: Housing Policy 4 and Recreation and Tourism Policy 4

Planning Considerations

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

- The principle of the development
- The payment of financial contributions towards the provision of recreation, education and medical facilities

Planning Assessment

The development would be on previously developed land within the Swadlincote Development Boundary and therefore would be acceptable in principle.

The threshold for requesting financial contributions to offset the impact of residential development on the local community is five dwellings. As the proposal is for six dwellings the requested contributions are as follows:

- Education: £23,336
- Medical: £2,664
- Recreation: £13,230

Housing Policy 3 of the Derby and Derbyshire Joint Structure Plan (2001), states that proposals for housing development within urban areas should, amongst other things, take account of the availability of or need for service infrastructure.

The Adopted Local Plan (1998) has no policy requiring education or medical facilities. With regards to recreation, however, Recreation and Tourism Policy 4 requires that adequate provision be made, in accordance with the Council's current standards, for outdoor playing space to meet the needs of the development. The current standard requires a contribution of £13,230

The withdrawn emerging Local Plan did contain policies relating to education and health provision to which there were nine objections. The Inspector reasoned that "such contributions are matters for negotiation in each instance and the viability of developing small sites is a factor to be taken into consideration as part of any negotiation." In response to the education policy he reasoned that "In some cases it may be appropriate for planning permission to be refused, if it would be wrong on land-use planning grounds to permit a new housing development without making suitable provision for the education of the children likely to occupy those homes. But it is too dogmatic to say that permission for new housing will only be granted if adequate provision for educational facilities has been negotiated. Negotiations would allow for special regard to be given to the type of housing being proposed and the characteristics of the site".

He considered it reasonable for the Council to state that the policy will apply to developments above a certain size, and regarded the figure of 10 dwellings to be a reasonable minimum. The Inspector's report was not binding and in itself is not a planning policy document.

In considering the Inspector's recommendations, the Council has resolved that the threshold for contributions should be 5 or more dwellings on the grounds that since the emerging local plan was originally drawn up the Council had successfully been negotiating contributions towards education facilities based on a threshold of 5 or more dwellings. It was that figure that was set out in the Proposed Modifications to the withdrawn plan.

Whilst the emerging local plan has been withdrawn, a policy rational for seeking contributions is maintained in the Structure Plan policy referred to above and there appear to be no exceptional circumstance that would form a persuasive argument to allow development without meeting its own service infrastructure needs.

The Inspector stressed the importance of negotiating rather than insisting on a set amount, to enable the circumstances of each site to be taken into account. The issue therefore is to establish what amount is reasonable. The applicant's agent estimates that the land value is at best between £40,000-£50,000.

Without an independently verified land valuation there is no knowing what a reasonable contribution might be. However, on the basis of an approximate in-house calculation using the BCIS Quarterly Review of Building Prices – April 2006, and using estimates of local house prices and land values it would appear that the requested contribution is not unreasonable. In the absence of an accurate and independently verified valuation, an appropriate assessment cannot be made and therefore the application should be refused.

The Highway Authority provides expert advice on highway safety issues and raises no objection to the proposals.

The separation distances between the proposed and existing dwellings would accord with the Councils adopted guidelines for housing layouts, and therefore the proposal is unlikely to cause a demonstrable loss of privacy for neighbouring residents.

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 on the following grounds:

1. Structure Plan and Local Plan policies indicate that it is legitimate to negotiate for financial contributions to offset the impact of new residential development on public services provided for the local community, namely recreation, medical and education facilities. The Council has set the threshold for such contributions at five or more dwellings. The total required contribution for this proposal amounts to £39,230 and the Local Planning Authority is not convinced that this development could not support this level of contribution. In the absence of independently verified evidence to show that such a contribution would make the development unviable and that a lesser amount is justified, the Local Planning Authority considers that suitable provision has not been made for the education, medical and recreation requirements likely to be generated by the proposed development. The proposal is therefore contrary to Housing Policy 3 of the Derby and Derbyshire Joint Structure Plan and Recreation and Tourism Policy 4 of the South Derbyshire Local Plan.

Item 2.2

Reg. No. 9/2006/0780/MR

Applicant:
Mr Mrs D Stone
22 Coppice Side
Swadlincote
Derbyshire
DE11 9AA

Agent:
N Dutton
49 Falcon Road
Anstey
Leicester
LE7 7FY

Proposal: **Outline application (all matters reserved) for the erection of twenty dwellings at 22 Coppice Side Swadlincote**

Ward: **Swadlincote**

Valid Date: **27/06/2006**

Site Description

The site is currently occupied by a large detached house and garden adjacent to Woodward's Place and Gresley Common. It falls away from Coppice side fairly sharply into a hollow and then rises again toward Swadlincote Ski Centre at the rear.

Proposal

The intention is to take access from Woodward's Place, which would be improved. Although the application was amended to show improvements to visibility on Coppice Side over common land, it has recently been amended back to its original arrangement with no increase to visibility.

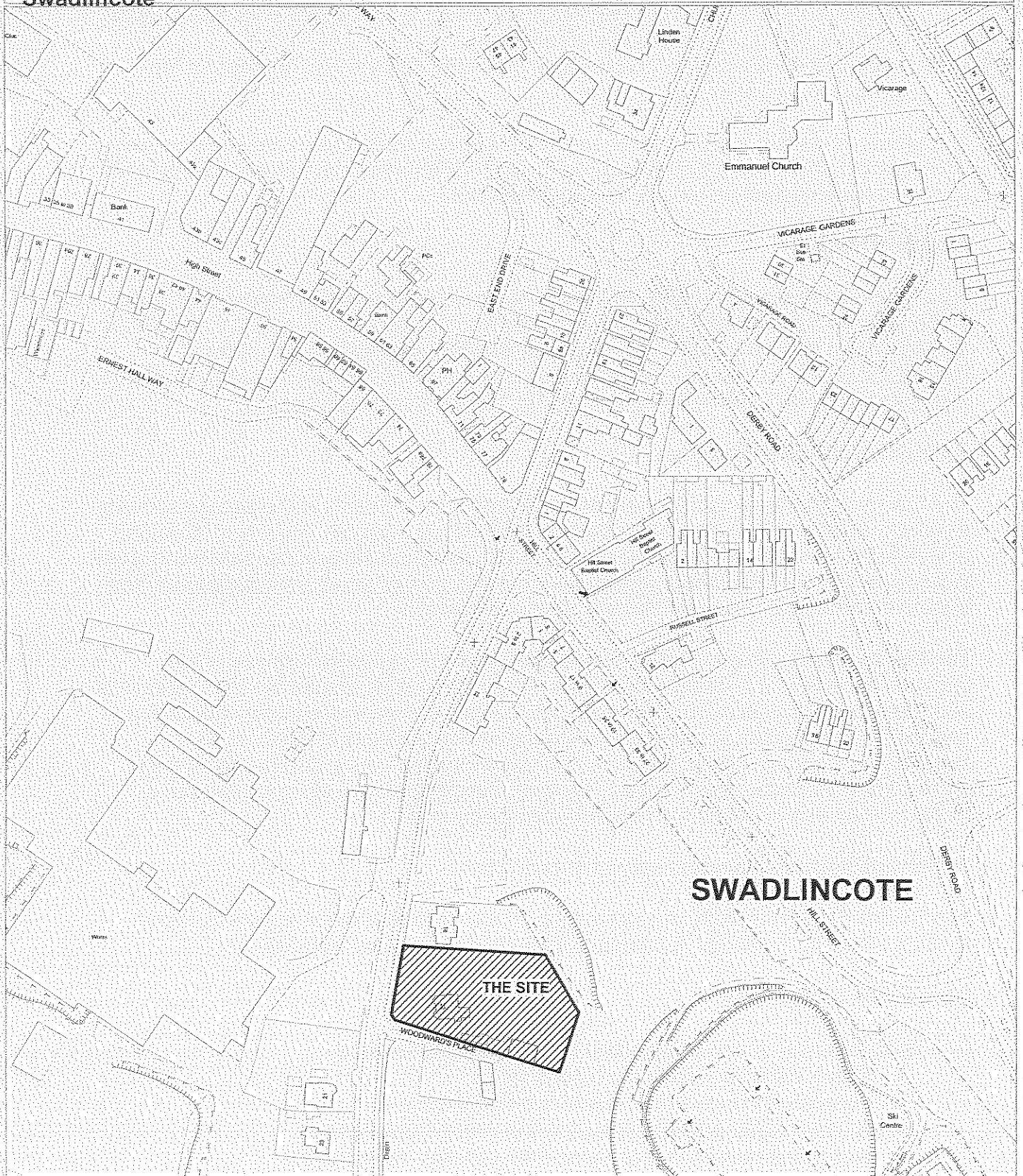
An indicative layout shows three blocks with a part three-storey block of houses fronting Coppice Side (with a lower ground floor set into the slope at the rear) and two three storey blocks of flats/houses lower down the site to the rear (i.e. a total of 20 units).

Applicants Supporting Information

In a statement submitted with the application, the agent states that the development has been planned to provide:

- a. A mix of affordable housing ranging from 1 bed to 3 bed accommodation within a layout which is functional, safe and provides a pleasant environment;
- b. The use of the falls on the site provide one to two storey fenestration particularly along the street frontage to reflect the character of the adjoining dwelling;
- c. A design to reflect the local character and vernacular with the use of good quality materials (illustrated by attached photographs). These include typical local materials such as red brick, stone cills, slate roofs and pavers for parking areas.

9/2006/0780/M 22 Coppice Side
Swadlincote



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Scale 1:2000 Date Plotted 2/2/2007

Plot centred at 430228 319487

9/2006/0780/M 22 Coppice Side
Swadlincote



- d. Safe parking areas and cycle storage. Given the close proximity of the town and Morrison's store, parking levels of 1.5 per dwelling for 2/3 bed units and 1 space for the 1 bed units are considered adequate.
- e. Use of good quality landscaping to improve the general environment for the proposed residents.

The agent states that the application meets the government's criteria that new housing development should be directed towards existing settlements and the proposal is similar to others approved and in progress around the town.

Planning History

A previous application (9/2005/1196) was refused under delegated powers because of inadequate land for visibility onto Coppice Side and because the suggested designs for the layout and floor plans failed to make a satisfactory case for their location.

Permission for the conversion and extension of the existing house on the site to a hotel was granted in 1991 and renewed in 1996 but has long since lapsed.

Responses to Consultations

The County Highway Authority had confirmed that improvements to the access showing a visibility splay over the adjoining common land was acceptable. However, now that this element has been withdrawn it recommends refusal on the grounds that without the inclusion of the common land, visibility for emerging drivers would be substandard and therefore contrary to the best interests of highway safety.

The Environmental Protection Manager initially found the proposal unacceptable because there are several significant potential noise sources around the application site and there is insufficient information supplied to highlight how these could affect future residents. These noise sources are an industrial unit on adjacent land, the new supermarket opposite (which has no restriction on trading hours) and the Ski Centre. He therefore recommended refusal. However, his officers have since carried out a more detailed survey and have now retracted their remarks.

Severn Trent has no objection subject to conditions.

The County Education Authority states that no contribution is required for education facilities. The PCT asks for its normal contribution of £444 per dwelling.

Responses to Publicity

One letter has been received objecting for the following reasons:

- Three storey building may block light
- Possible damage to the sewer crossing the site
- A storm water drain crossing the site cannot be built over
- Noise and pollution would arise from vehicles using the site.

Development Plan Policies

The relevant policies are:

RSS8: Policies 3, 4, 5, 15 and 18,

Joint Structure Plan: GDSP 2 and 3, H3 and 17, T4

Local Plan: H4, H11 and T6.

Planning Considerations

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

- **Conformity with the Development Plan**
- Highway safety
- Impact on residential amenity

Planning Assessment

Residential redevelopment of this 'previously developed land' would be fully in accord with the policies of the Development Plan, as would achieving higher densities and thus greater affordability of the dwellings.

Although the applicant amended the scheme to show the necessary visibility splay across common land on Coppice Side, this has now been withdrawn and as such the County Highway Authority recommends that the application be refused.

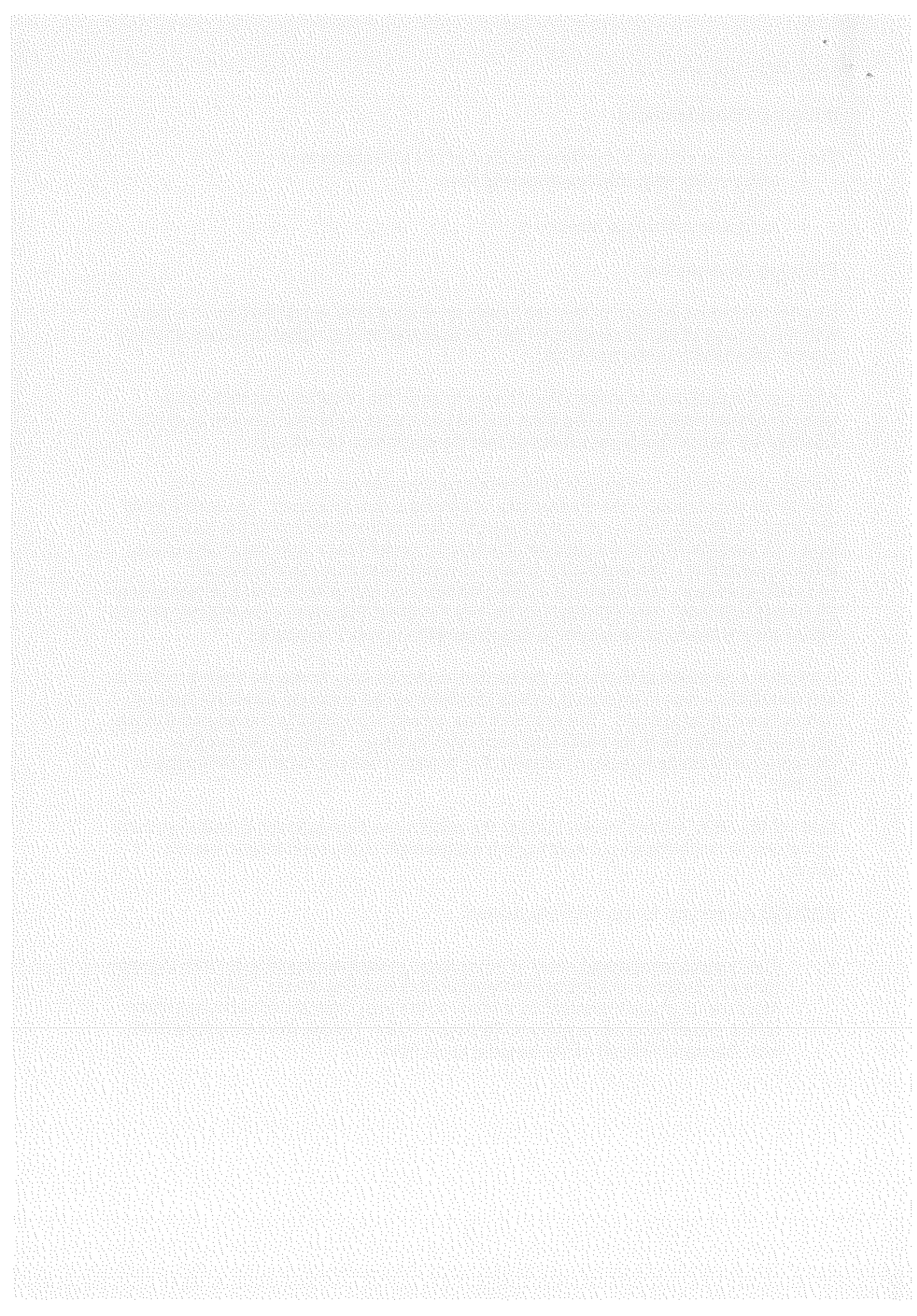
Details of the design and layout of the dwellings are reserved but the site is large enough to accommodate the smaller size of dwellings now proposed. Fairly extensive architectural details and a layout and levels/sections of the dwellings of the size and type indicated have been supplied and there is no longer reasonable doubt about their likely acceptability. The suggested scheme demonstrates more than adequate separation between proposed and existing dwellings in accordance with Supplementary Planning Guidance. Any difficulty with the need to divert the sewer crossing the site is a matter for any eventual developer to negotiate with the water company.

It would not be possible to provide the normal incidental/ play space on the site but an in lieu contribution toward improving existing facilities on the adjoining extensive area of common would be justified. The applicant has agreed in principal to the payment of the necessary contributions for health and recreation facilities. However, although a unilateral undertaking has been received, the applicant has yet to demonstrate title to the land.

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.

REFUSE permission for the following reason:

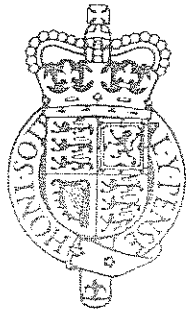
1. The development would result in an increase in vehicle movements onto Coppice Side in conditions of substandard visibility for emerging drivers. Such movements would therefore be contrary to the best interests of highway safety on the classified road contrary to Transport Policy 4 of the Joint Structure Plan and Transport Policy 6 of the adopted Local Plan.



2. PLANNING AND OTHER APPEALS

(references beginning with a 9 is planning appeal and references beginning with an E is an enforcement appeal)

Reference	Place Cttee/delegated	Ward	Result	
9/2006/0533	Egginton	Etwall	Dismissed	Delegated
9/2006/0124	Thurvaston	North West	Dismissed	Delegated
9/2006/0628	Bretby	Repton	Dismissed	Delegated
9/2006/0256	Ticknall	Hartshorne/Ticknall	Allowed	Delegated
9/2006/0257	Ticknall	Hartshorne/Ticknall	Allowed	Delegated



Appeal Decision

Site visit made on 4 January 2007

by Philip Barton MCD BA(Hons)

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

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
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inspectorate.gsi.gov.uk

Date: 31 January 2007

Appeal Ref: APP/F1040/A/06/2025636

Former goods yard of British Rail, Eggington Road, Etwall DE65 6GW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Clive Francis Jones against the decision of South Derbyshire District Council.
- The application Reference 9/2006/0533/U, dated 28 April 2006, was refused by notice dated 24 July 2006.
- The development proposed is the change of use of building to dwelling.

Procedural Matters

1. The application form records the site address inaccurately. During my site visit, I confirmed that the appeal site is located in Etwall Road, Eggington.
2. Although the appellant argues that he is seeking outline planning permission, the application seeks permission for a change of use. Moreover, the application form clearly indicates that full planning permission is sought. I have determined the appeal accordingly.

Decision

3. I dismiss the appeal.

Planning Policy

4. Planning Policy Guidance Note 3: Housing (PPG3) has been cancelled and is replaced by Planning Policy Statement 3 (PPS3): Housing. I have applied the advice in paragraph 8 of PPS3 in the light of the proposal. Given the nature and location of the proposed development, I consider that the advice found in Planning Policy Statement 7: Sustainable development in rural areas (PPS7) in relation to the re-use of buildings in the countryside has more bearing in this case than the housing supply arguments formerly found in PPG3 and now in PPS3.
 5. The other relevant policies in this case are, firstly, Environment Policy 1 and Housing Policies 7 and 11 of the South Derbyshire Local Plan (LP), adopted in May 1998, which set out policies for the control of development in the countryside; residential conversions outside settlement boundaries, and new housing developments. Secondly, General Development Strategy Policy 4 and Housing Policy 6 of the Derby and Derbyshire Joint Structure Plan (SP), adopted in January 2001, set out policies in regard to the re-use of buildings and housing development away from settlements. Thirdly, Policy 2 of the Regional Spatial Strategy for the East Midlands (RSS8), published in March 2005, includes a sequential test for the siting of development.
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Main Issues

6. The main issues in this case are the effect of the proposal on the control of development in the countryside and the effect of the proposal on highway safety.

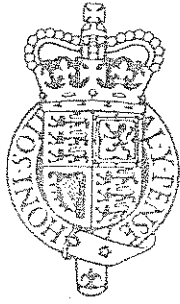
Reasons

7. The appeal site is located in the countryside, outside the settlement boundaries of the nearby villages of Etwall and Eggington. The site is about 330m long but only about 23m wide at its widest point. It is a former railway goods yard, located adjacent to a passenger railway line and close to a light-controlled level crossing. A few 2-storey semi-detached and terraced houses cluster around the level crossing and are screened by mature trees growing alongside Etwall Road and in nearby copses. The predominant land uses in the area are farmland under cultivation and pasture for the grazing of horses. As far as it was possible for me to determine during my site visit, the building in question is the only significant structure on the site. It was granted full planning permission in 2002 for the purpose of storage. The nearest bus stop is over 500m away from the building and is served by one bus route (the V2), which runs an hourly uni-directional service during the day from Monday to Saturday. There is no bus service during the evenings or at any time on Sundays.
8. According to the appellant, the appeal site has been most recently used for the maintenance and storage of boats. There was a small boat on the site at the time of my visit. Although the appellant indicates that planning permission for mushroom farming was granted some 18 years ago, there does not appear to be any business-related activity on the site at present. Furthermore, I have been given no evidence to indicate that the proposed dwelling would be occupied in association with any other employment use that would support the rural economy. Moreover, although the site is previously developed land, it is not located in or on the fringe of an urban area and is not well-served by public transport. It would not, therefore, fully satisfy the criteria laid down in the sequential test for the siting of development found in Policy 2 of RSS8.
9. The building differs substantially from houses in the vicinity and its setting is also different. It is a utilitarian, single storey, detached structure with a particularly steep roof pitch. It is sited much further away from Etwall Road and is surrounded by open fields and domestic gardens. As a result, it appears isolated and highly visible on the site. In my assessment the proposed dwelling would not, as a result of its design and siting, appear in keeping with other houses in the vicinity. The submitted drawings indicate the proposed construction of an upper storey internally. Both ceiling heights, at about 2m, would be unusually low. To my mind this is a strong indication that the structure is too small to be usefully converted into a 2-storey dwelling. I am not convinced that the building is suitable for conversion to a dwelling, as proposed, without extensive alteration, rebuilding or extension. Moreover, the appellant clearly states that, if this appeal succeeds, it is his intention to seek permission for further changes to the external appearance of the structure.
10. I find that the building is unsuitable for conversion to a dwelling as proposed and that the proposal would neither support rural economic activity nor appear well-related to other houses in the vicinity. It would not, therefore, accord with the requirements laid down in the relevant RSS8, SP and LP Policies that support the thrust of paragraph 17 of PPS7, in regard to the re-use of buildings in the countryside.

11. The Local Highways Authority (LHA) states that Etwall Road is subject to a 60mph speed limit. All of the vehicles that I saw during my site visit were, in my judgment, travelling at or near the maximum speed for this road. There were three vehicles parked partly on the road and partly on the footway – two to the south of the level crossing and one to the north. I also noted that Etwall Road appears to be unlit, apart from one lamp on either side of the level crossing. I consider that there is adequate visibility to the north for vehicles exiting the appeal site. However, to the south, visibility is limited by the motor box and arm of one of the level crossing barriers. Moreover, the LHA expresses concern about the proposal. There is speculation about the level of traffic that might be generated if this site were to be granted planning permission for an industrial use. However, I have been given no evidence to suggest that any such proposal has been brought forward, or is imminent.
12. Third parties who live close by indicate that traffic movements to and from the site are generally light. However, as the site is not well-served by public transport, I consider it most likely that future occupants of the proposed dwelling would drive to access local services and/or would use home delivery services. I am satisfied that the proposal would lead to a significant increase in traffic movements in and out of the site. Given the likely increase in traffic movements; speed of traffic; poor lighting; apparent on street parking, and limited visibility to the south, I find that the proposal would be likely to significantly increase the risk of vehicular conflict and would, thereby, detrimentally affect highway safety. It would fail to accord, therefore, with LP Housing Policy 11, which requires housing developments to provide safe, functional layouts. I also note that General Development Strategy Policy 4 of the SP, which is relevant to this appeal, requires that proposals to re-use buildings in the countryside should not give rise to traffic problems.
13. The appellant feels that the appearance of the appeal site would be significantly improved by the proposed development because the land would be better maintained than it is at present. I do not consider that this application represents the only way to improve the environmental quality of the site. Even so, I do not consider that this potential benefit would outweigh the harm that I have identified, particularly in relation to highway safety. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Philip Barton

Inspector



Appeal Decision

Site visit made on 15 January 2007

by Jennifer Vyse DipTp DipPBM MRTPI

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

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Temple Quay House
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e-mail: enquiries@planning-inspectorate.gsi.gov.uk
Date: 26 January 2007

Appeal Ref: APP/F1040/A/06/2027257

Stable Building to the N.E. of The Garth, Thurvaston, Ashbourne DE6 5BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Miss Cope against the decision of South Derbyshire District Council.
- The application No 9/2006/0124/U, dated 18 January 2006, was refused by a notice dated 27 March 2006.
- The development proposed is described as a stable block conversion.

Procedural Matters

1. With the agreement of the main parties, I made unaccompanied visits to Longford, Long Lane and Brailsford on the same day as the site visit.

Decision

2. For the following reasons I dismiss the appeal.

Reasons for the Decision

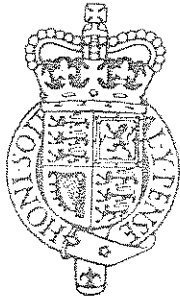
3. The appeal property comprises a single storey building that is falling into disrepair. It is set well back from the road and lies between two dwellings, The Garth and The Willows. It is proposed to convert the building to create a five bedroom dwelling. National guidance in Planning Policy Statements 1 'Delivering Sustainable Development' (PPS1) and 7 'Sustainable Development in Rural Areas' (PPS7) and Planning Policy Guidance Note 13 'Transport' (PPG13) all promote sustainable development. That guidance is reflected in General Development Strategy Policy 1 of the Derby and Derbyshire Joint Structure Plan (adopted January 2001).
 4. I saw during my visit that Thurvaston is little more than a loose cluster of dwellings and farm buildings within the open countryside. I am advised that there are milk, post and newspaper deliveries to the properties there, together with supermarket home deliveries and a school bus for secondary age youngsters. However these do not, in my opinion, equate to the 'wide range of community facilities' in the settlement referred to by the appellants. In fact, the nearest facilities, primary schools and churches, are at Longlane (approx 1km) and Longford (approx 3km). A wider range of facilities and services is available in Brailsford (approx 4km) including a medical centre, post office/shop, butcher and undertaker and I was advised that there are a number of pubs/restaurants scattered throughout the surrounding area.
 5. I am mindful however, of advice in Planning Policy Guidance Note 13, which stresses that walking is the most important mode of travel at the local level and offers the greatest potential to replace short car trips, particularly under 2km. None of the facilities and
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services typically required by people on an everyday basis is located within the enclave of properties at Thurvaston and, other than a primary school, church and public house, none is available within walking distance of the appeal site.

6. I am advised that a bus route passes nearby, but no information is before me as to the frequency of that service. I also recognise that a national cycle route passes through Thurvaston and that there is a wide network of public footpaths in the area. Nonetheless, given the rural location of the appeal site, its remoteness from jobs, services and other facilities, with no evidence of a good public transport link to those facilities, I consider that occupiers of the dwelling proposed would be reliant on the private car, contrary to the provisions of national and local policy and guidance in relation to sustainability
7. In support of the appeal, I am advised that permission for conversion of the building was originally granted in 1981 and was subsequently renewed over the years, the latest renewal being in November 2000. Although a further application was submitted for renewal prior to expiry of the permission in November 2005, it was rejected by the Council on the basis of advice in Circular 8/2005. A fresh, full application was then submitted, and it is that which is the subject of this appeal. The application falls to be considered on its own merits, in the light of current planning considerations, which include PPS1, PPS7, PPG13 and the Joint Structure Plan (all of which post-date the last permission). In my opinion, the fact that permission has been granted for the same development in years gone by, does not outweigh the conflict with current guidance and policy that I have identified above.
8. I am also advised that the accommodation would assist in providing the appellants' disabled father with 24 hour care and supervision. I am mindful in this respect, of advice in *The Planning System: General Principles*, the accompanying document to PPS1, that exceptionally, the personal circumstances of an occupier may be material to the consideration of a planning application, although such arguments will seldom outweigh more general planning considerations. The information before me is that it is the appellants' wish to be in close attendance from the 'neighbouring conversion' proposed, to assist their father. I am also advised however, that at least one of them already lives with their father. The development proposed is of a permanent nature and will remain long after any personal circumstances have ceased to be material. In my opinion, the arguments of the appellants in this respect, amount simply to personal benefits rather than any overriding need for the development proposed, with nothing before me to indicate that the development is essential in any way to assist with the care of their father, and the arguments do not outweigh my concerns in relation to the unsustainable location of the appeal site.
9. For the reasons given above and having regard to all other matters raised, I conclude on balance, that the appeal should not succeed.

J A Vyse

INSPECTOR



Appeal Decision

Site visit made on 9 January 2007

by **Keith Manning** BSc (Hons) BTP MRTPI

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

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Date: 22 January 2007

Appeal Ref: APP/F1040/A/06/2025477

34 Bretby Lane, Burton-on-Trent DE15 0QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr J Beighton against the decision of South Derbyshire District Council.
- The application Ref 9/2006/0628/FH, dated 19 May 2006, was refused by notice dated 19 July 2006.
- The development proposed is detached garage/playroom and new vehicular access.

Procedural Matter

1. The application includes provision for a new vehicular access in the same position as that already approved by the Council under a separate planning permission. This appears to have been implemented in part by a lowering of the kerb and a section of hedgerow also appears to have been removed. On that basis, I confine my reasons solely to the detached garage/playroom.

Decision

2. I dismiss the appeal.

Reasons

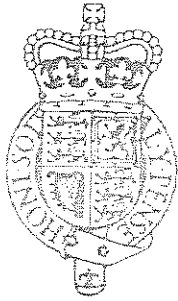
3. The main issue is the effect of the proposal on the character and appearance of the area with particular regard to the street scene. This is typified on this section of Bretby Lane by detached and semi-detached dwellings set in substantial gardens. Many of these are of individual appearance and design and No 34 and its neighbour, No 32, are especially large and set at an angle to the road. They are elevated and set back from the building line formed by the neighbouring properties on the same side of the road.
4. Although it is not rigid and is discontinuous by virtue of the positioning of Nos 32 and 34, the building line is nevertheless clearly discernible and the gardens forward of it are, on this section of Bretby Lane, largely free of structures. Their open and spacious nature forms a pleasant setting for the houses and contributes significantly to the general character and appearance of the area. The area is not subject to any special or restrictive designation, but Planning Policy Statement 1 (PPS1): *Delivering Sustainable Development* nevertheless requires development to be appropriate in its context.
5. I accept that the site of the proposed development is low lying relative to the existing house at No 34 (and to some extent the neighbouring bungalow at 36 and its garden) and is screened by significant hedgerows. It is, however, slightly elevated relative to the road and

wholly forward of the general building line. Although the building would not be situated directly at the back of the pavement it would nevertheless be significantly closer to it than any of the nearby buildings. While I acknowledge that there would be no overlap between the front elevation of No 36 and the proposed building, this separation would not be visually apparent from Bretby Lane to the north west of the appeal site. Moreover, the very considerable bulk and two storey construction of the proposed building, comparable in footprint and height to a dwelling, would cause it to be very prominent at the side of the road in any event. For these reasons I consider that it would be unacceptably dominant within the street scene and therefore harmful to the character and appearance of the area.

6. Policy H13 of the South Derbyshire Local Plan concerns domestic extensions and the associated Supplementary Planning Guidance draws attention to the desirability of generally observing established building lines to the front of dwellings. There is no suggestion from either party that the policy and guidelines do not apply with equal force to detached structures as they do to integral extensions and, in any event, one of the clear intentions of the policy is to safeguard the general character of the area.
7. I accept that the design and external appearance of the proposed garage/playroom would be in keeping with the house at No 34 itself, that the privacy of neighbouring occupiers would not be compromised and that the vehicle manoeuvring arrangements would be more convenient than at present. However, these factors do not outweigh the harm that I have identified, which would be contrary to the intentions of both local and national policy.
8. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Keith Manning

INSPECTOR



Appeal Decisions

Inquiry held on 14 November 2006

Site visit made on 14 November 2006

by **Dannie Onn** RIBA IHBC

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

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Date: 18 January 2007

The Estate Yard, Main Street, Ticknall, Derbyshire, DE73 1JH

Appeal A: APP/F1040/A/06/2023911

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Harpur Crewe Limited Liability Company against the decision of South Derbyshire District Council.
- Application Ref 9/2006/0256/F, dated 9 February 2006, was refused by notice dated 14 August 2006.
- The development proposed is conversion of existing buildings to residential and retaining some as commercial use plus one new dwelling.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Appeal B: APP/F1040/E/06/2023919

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Harpur Crewe Limited Liability Company against the decision of South Derbyshire District Council.
- Application Ref 9/2006/0257/L, dated 9 February 2006, was refused by notice dated 14 August 2006.
- The works proposed are conversion of existing buildings to residential and retaining some as commercial use.

Summary of Decision: The appeal is allowed, and listed building consent is granted in the terms set out below in the Formal Decision.

Procedural Matters

1. Appeals Ref APP/F1040/A/06/2009966 and APP/F1040/E/06/2009964 relating to an alternative proposal on the same site were withdrawn in writing at the inquiry.
 2. When the inquiry opened, an agreed statement on highway matters was submitted. That document confirms that, subject to highway works outside the appeal site, there would be no objection to the proposals from the Highway Authority. The amendments involve a widening of the footway to decrease the radius of the bend at the junction of High street and Main Street. This would have the effect of slowing traffic and at the same time increasing the visibility distance from the appeal site exit on High Street. The Main Street access would then be closed to vehicles.
 3. At the inquiry the appellant formally amended the applications to omit the alterations to the boundary wall along High Street. I have dealt with the appeals on that basis.
 4. At the inquiry, I ruled that the proposed off-site highway improvements could be subject of a negatively worded condition as set out at paragraph 39 of Circular 11/95. Although the
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works would need to be carried out by or on behalf of the Highway Authority, there is every prospect that the condition would be met. The use of a negatively worded condition would overcome the objection to the scheme proposed. I consider that, subject to precise wording, such a condition would otherwise meet the tests of Circular 11/95.

5. The main parties agree that, on a balance of the potential increased use of the site against an improved visibility at the access, the proposed condition would not worsen highway safety. The highway works themselves would not require planning permission.
6. The Council suggests that the effect of the highway improvements would be to alter the development by changing the proposed access arrangements from those shown on the application plans and that this change should be subject to consultation. I consider that the effect of the change would be minimal and at the same time it would have a positive effect, removing the objections of the Highway Authority and improving highway safety. No third party concerns would be prejudiced. Proper consultation was carried out at the application stage and no objections were raised at the inquiry by interested persons. I consider that no purpose would be served by requiring a further application where nothing else remains in dispute between the main parties.
7. In objecting to the use of the condition in this particular case the Council refers to the Encyclopaedia of Planning law at paragraph P72.10 on page 2-3297. Three cases are relied upon. The case of *Bernard Wheatcroft Ltd v Secretary of State for the Environment and another* (1982 JPL 37) draws on *Kingston-upon-Thames Royal London Borough v Secretary of State for the Environment and another* (1974 1 All ER 193) and *Kent County Council v Secretary of State for the Environment and another* (1976 P&CR 70). It is held that a condition reducing the development can be imposed provided that it does not alter the substance of that which is applied for. If it does alter the substance, it cannot legitimately be imposed because there has been no opportunity for consultation. In this case, the development would be substantially the same as that applied for and no further consultation is required.
8. Following my ruling, the parties did not wish to present or cross-examine any evidence.

Reasons for the Decisions

9. It is common ground that the proposed development would make beneficial use of the historic buildings and provide additional housing on previously developed land within easy reach of local facilities. There is no issue between the parties in respect of design and the impact on the historic farmyard group. I see no reason to come to a different view. With all other concerns capable of being resolved by planning conditions, I consider that the proposed conversion would accord with Environment Policies 9 and 10 of the Derby and Derbyshire Joint Structure Plan and Environment Policies 12 and 13 of the South Derbyshire Local Plan.

Conditions

10. A list of suggested conditions was discussed at the inquiry. Further details of the construction of the buildings and external works will be required because of the sensitivity of the site and the quality of the existing buildings. For the same reason, it would be appropriate to attach a condition removing permitted development rights from the new dwellings so that any future alterations could be considered by the Council. Conditions

relating to the access points and parking within the site will ensure that road safety is not compromised. In that regard the proposed condition relating to off-site highway alterations will also be attached. Lastly, a condition to deal with any ground contamination will be attached because of the past industrial use of the buildings. The listed building consent will only require those conditions related to the listed structures themselves. I have modified the conditions to avoid duplication and to comply with the tests of Circular 11/95.

Conclusions

11. The proposed development would accord with the development plan for the area and there would be no harm to the listed building or its setting. For these reasons and having regard to all other matters raised, I conclude that the appeals should succeed.

Formal Decisions

Appeal A: APP/F1040/A/06/2023911

12. I allow the appeal, and grant planning permission for conversion of existing buildings to residential and retaining some as commercial use plus one new dwelling at The Estate Yard, Main Street, Ticknall, Derbyshire in accordance with the terms of the application, Ref 9/2006/0256/F, dated 9 February 2006, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
 - 3) No development shall take place until large scale drawings to a minimum scale of 1:10 of boundary walls, eaves, verge, external joinery including horizontal and vertical sections, precise construction methods of opening and sill and lintel details have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details.
 - 4) External joinery shall be of timber and prior to first occupation of the unit to which it relates shall be painted to a colour and specification that has first been agreed with the local planning authority.
 - 5) No development shall begin until a structural engineers report and full details of the proposed recessed glass wall and steel frame to the former cow shed have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details.
 - 6) No development shall begin until details of the proposed rooflights, which shall be cast metal and fitted so that they do not project above the line of the roof covering, have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details.
 - 7) All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the buildings unless specifically agreed in writing by the local planning authority. No development shall begin until the

- type, number, finish and position of heating and ventilation flue outlets have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details.
- 8) Gutters and down pipes shall be cast metal and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
 - 9) Windows shall be single glazed unless agreed otherwise with the local planning authority.
 - 10) All works of alteration and making good of the existing fabric shall be carried out in matching reclaimed brick and plain clay tile, samples of which shall have previously been submitted to and approved in writing by the local planning authority.
 - 11) Pointing of the existing and proposed buildings shall be in a lime based mortar no stronger than 1:1:6 (cement:lime:yellow sand) and the finished joints shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet: *Repainting of Brick and Stonework*.
 - 12) No development shall begin until sample panels of pointed brickwork and stonework 1m square or such other area as may be agreed have been prepared for inspection on site and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved samples.
 - 13) No development shall begin until precise details including paving patterns, specifications and samples of the materials to be used in hard landscaping works have been submitted to and approved in writing by the local planning authority and the approved works shall be carried out before occupation of any of the units or in accordance with a programme that has first been agreed with the local planning authority.
 - 14) All boundary walls shall have shaped clay or stone copings and no development shall begin until samples have been submitted to and approved in writing by the local planning authority. The boundary walls shall be completed in accordance with approved details prior to first occupation of the buildings or in accordance with a programme that has been first agreed with the local planning authority.
 - 15) No development shall begin until the junction of Main Street and High Street has been altered in accordance with a scheme in the style of drawing No D113723/TP07, which has been submitted to and approved in writing by the local planning authority.
 - 16) No development shall begin until a scheme for the prevention of vehicle movements between the site and Main Street has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the dwellings hereby approved and shall be retained throughout the lifetime of the development.
 - 17) The dwellings hereby approved shall not be occupied until space has been provided within the site for the parking and manoeuvring of 2 vehicles per unit, which shall be retained thereafter free from impediment to the designated use.
 - 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no development under Schedule 2 Part 1, Classes A, B, C, D, E, F and G or

under Part 2, Class A of the Order shall be carried out on the newly erected dwelling without the prior planning permission of the local planning authority.

- 19) Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public when the site is developed. Development shall not begin until the measures approved in the scheme have been implemented.

Appeal B: APP/F1040/E/06/2023919

13. I allow the appeal, and grant listed building consent for conversion of the existing buildings to residential and retaining some as commercial use at The Estate Yard, Main Street, Ticknall, Derbyshire in accordance with the terms of the application Ref 9/2006/0257/L dated 9 February 2006 and the plans submitted with it subject to the following conditions:
- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
 - 2) No works shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
 - 3) No works shall take place until large scale drawings to a minimum scale of 1:10 of boundary walls, eaves, verge, external joinery including horizontal and vertical sections, precise construction methods of opening and sill and lintel details have been submitted to and approved in writing by the local planning authority and the works shall be carried out in accordance with the approved details.
 - 4) External joinery shall be of timber and prior to first occupation of the unit to which it relates shall be painted to a colour and specification that has first been agreed with the local planning authority.
 - 5) No works shall begin until a structural engineers report and full details of the proposed recessed glass wall and steel frame to the former cow shed have been submitted to and approved in writing by the local planning authority and the works shall be carried out in accordance with the approved details.
 - 6) No works shall begin until details of the proposed rooflights, which shall be cast metal and fitted so that they do not project above the line of the roof covering, have been submitted to and approved in writing by the local planning authority and the works shall be carried out in accordance with the approved details.
 - 7) All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the buildings unless specifically agreed in writing by the local planning authority. No works shall begin until the type, number, finish and position of heating and ventilation flue outlets have been submitted to and approved in writing by the local planning authority and the works shall be carried out in accordance with the approved details.
 - 8) Gutters and down pipes shall be cast metal and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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Dannie Orr
INSPECTOR

