

DEVELOPMENT CONTROL COMMITTEE – 14 February 2006

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).

REPORT OF THE HEAD OF PLANNING SERVICES

1. Planning Applications

2. Appeals

1. INDEX TO PLANNING APPLICATIONS

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

2. INDEX TO PLANNING APPEALS

Application	Place	Ward	Result
9/2005/0694	Woodville Road, Overseal	Seales	Dismissed
9/2005/0225	Main Street, Burnaston	Etwall	Dismissed
E/2003/516	Rose Lane, Ticknall	Hartshorne/Ticknall	Dismissed

1. PLANNING APPLICATIONS

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

14/02/2006

Item 1.1**Reg. No.** 9/2005/1165/U**Applicant:**
Elizabeth Soane & Rosemary Pipes
Shawcroft
Robinsons Hill
Melbourne
Derbyshire
DE738DJ**Agent:**
James Soane
Project Orange
1st Floor Morelands
London
EC14 8JU**Proposal:** Change of use of B1 workshop to C3 residential of The Stables Robinsons Hill Melbourne Derby**Ward:** Melbourne**Valid Date:** 04/10/2005**Site Description**

The application site lies within an enclave of buildings focussed on Shaw House, a Grade II listed building. A number of the buildings are converted former outbuildings to Shaw House. The subject building is attached to Shaw House and is listed in its own right. It is the only building in the group that is not already in residential use. The building was originally used as stables and the ground floor, in particular, remains largely intact with significant original features and floor plan.

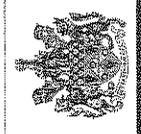
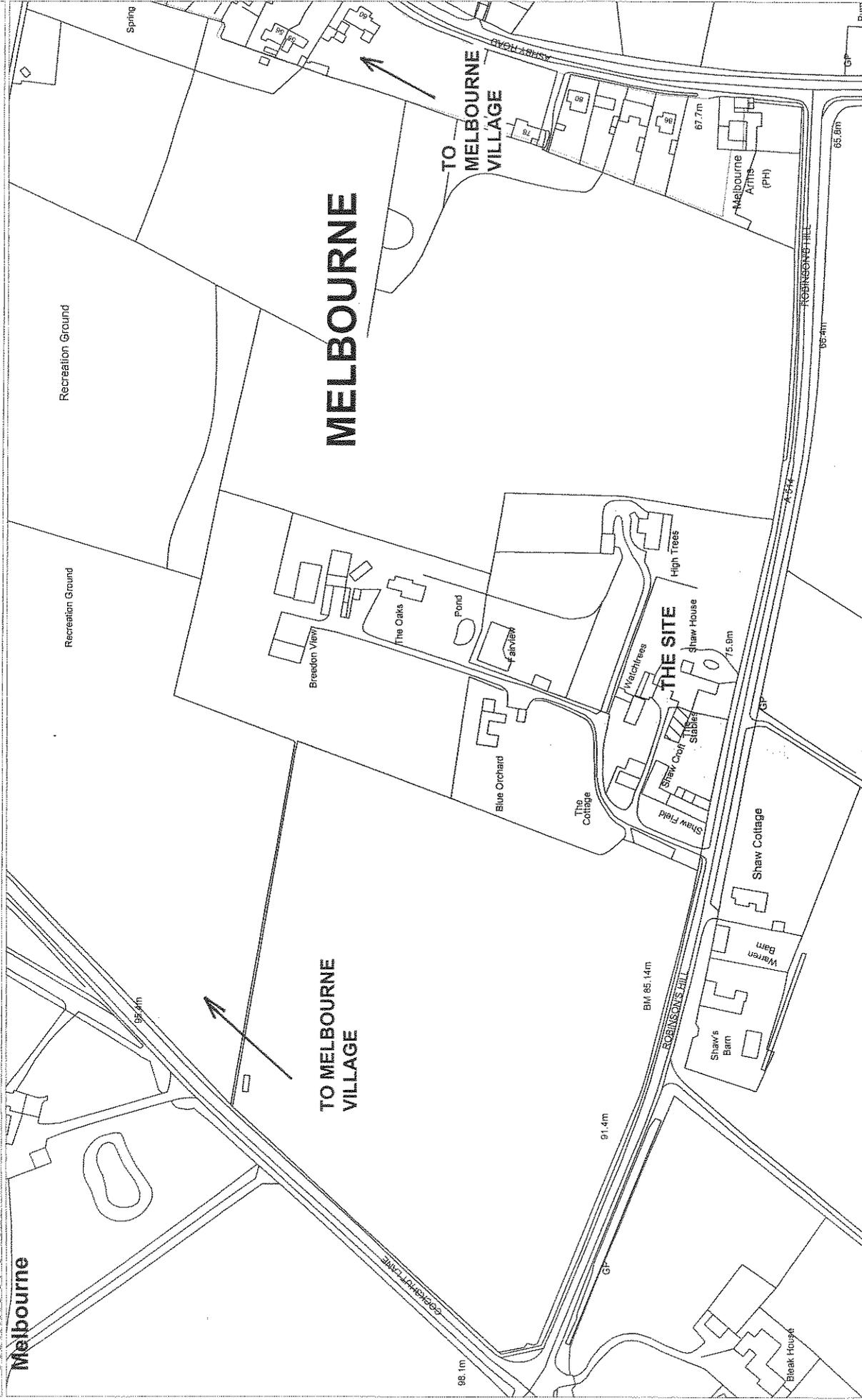
The site is connected to the village centre by a tarmac footway alongside Robinsons Hill, Ashby Road and High Street. There is a bus service in Robinsons Hill. The centre of the village is about 1 km away on foot

Proposal

The application proposes no new openings or material change to the exterior of the building, other than repairs. The inside would be sub-divided at first floor level to form open plan living accommodation, with a separate bedroom, bathroom and utility room. A new staircase would be installed in the position of that existing. The ground floor would be used as a studio/workshop, retaining its present open character, brick floor and historic timber stalls.

The amenity space for the dwelling would be in the yard area between the building and the road.

9/2005/1165 &
 9/2006/0008/L The Stables
 Robinsons Hill
 Melbourne



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 DISTRICT COUNCIL
 CIVIC OFFICES
 CIVIC WAY
 SWADLINCOTE DE11 0AH

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Date Plotted 2/2/2006
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Applicant's supporting information

- a) In the past the barn was used as pottery and most recently as a workshop/store for an upholsterer.
- b) The progressive failure of the building fabric has resulted in damp and running water to the ground floor. The building was vacated last year and is in need of attention. The means of escape must be replaced as well as the electrical services. There is water damage to a load bearing floor beam that requires major work.
- c) The rental value of the property for light industrial use is in the order of £200 per month, plus rates and utility bills. This equates to a rental value of £1.50 per sq ft/annum.
- d) The low rental value would remain so unless substantial improvements to the building were made. The applicant has not been able to find a new tenant owing to the current state of the property.
- e) The likely cost of upgrading the building, whatever its use, would be in the order of £200,000. The cost could be higher because of the listed status of the building. The returns from any subsequent business use would not support this level of investment.
- f) Although the site is outside the village confine this is the only unconverted barn in the locality, a precedent having been set by previous conversions.
- g) Access to the building is through a single domestic door, which places restrictions on its usage.
- h) There would be traffic problems if the buildings were to be used by a business with a number of employees. There is only limited parking allocation.
- i) As dwellings surround the building, residential use would be more compatible and less likely to cause disturbance to neighbours.
- j) Research indicates that the demand for live/work space is slow and relates mainly to retail units with flats above.
- k) There is no local demand for holiday lets. There are hotels and B&Bs that satisfy the needs of the town.
- l) Residential is seen as the ideal use and would provide a 2 bedroom house, enabling a household to live in a rural location that is in walking distance of a town with shops, schools and other essential services.
- m) The applicant's opinion with regard to lack of demand for holiday lets and live/work units is supported by a letter from a local estate agent, based on knowledge and experience of the property market, particularly in Melbourne.

Responses to Consultations

The Parish Council has no objection.

Melbourne Civic Society supports what it considers to be an excellent scheme.

The Highway Authority and Severn Trent Water Limited have no objection in principle.

The Environmental Protection Manager comments that previous workshop use may have resulted in some contaminants in the soil and recommends appropriate measures.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

RSS8: Policies 3, 31 and 47

Joint Structure Plan: General Development Strategy Policies 1 & 4, Housing Policy 6, Environment Policy 10 and Transport Policy 1

Local Plan: Housing Policies 7 & 11, Environment Policy 13 and Transport Policy 6

Planning Considerations

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

- The principle.
- Impact on the character and setting of listed buildings.
- Residential amenity
- Highway safety
- Drainage
- Contaminated land

Planning Assessment

The site lies outside the framework of the village. Therefore it is appropriate to consider the merits of the proposal against the objectives of sustainable development. The preferred usage of an existing building in this location would be for business purposes. Nevertheless the applicant has provided evidence that it would be difficult to fund the refurbishment of the building unless there is a residential after use. If a high rental value could be achieved through business rents then it is probable that the building would be subject to use of such intensity as to risk disturbance to neighbours. The refurbishment and re-use of historic buildings is encouraged by national, regional and local policy and the Structure Plan acknowledges the contribution that re-use of buildings can make to sustainability. The availability of a surfaced pedestrian link to the village centre, which is within walking distance, and the presence of the bus stop close to the site are further indicators that this particular proposal would be in accord with sustainable development and transport objectives. Therefore, on balance, the proposal is acceptable in principle.

The Design and Conservation Officer advises that the scheme respects the historic fabric of the building, involving minimal sub-division at the first floor and retaining the historic features and plan form at ground floor level.

Subject to a condition requiring obscure glazing to the opening in the rear elevation there would be no demonstrable harm to the living conditions of neighbours.

On the advice of the Highway Authority there would be no harm to highway safety interests.

Subject to an appropriate condition, recommended by Severn Trent Water Ltd the site sewerage and drainage arrangements would be satisfactory.

An appropriate condition would safeguard the contaminated land issue.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. C1A 001 A, 101 A and 103 A received under cover of the agent's letter dated 21 December 2005.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. All works of alteration and making good of the existing fabric of the building shall be carried out in matching reclaimed stone and plain clay tiles, samples of which shall have previously been submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the appearance of the building.
4. The extent of repointing works shall be agreed in writing by the Local Planning Authority before any such works are commenced.
Reason: In the interests of the appearance of the building and the character of the area.
5. Pointing of the existing/ proposed building(s) 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 the appearance of the building(s).
6. A sample panel of pointed brickwork/stonework 1 metre 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. The works shall be carried out in accordance with the approved sample.
Reason: In the interests of the appearance of the building and the locality generally.
7. Notwithstanding the submitted drawings large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details 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.
8. The door to the rear (north) elevation of the building shall be permanently glazed in obscure glass.
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.
9. 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.

10. 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, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

11. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

12. 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.

13. Prior to the first use of the development hereby permitted, parking and turning facilities shall be provided so as to accommodate two cars within the curtilage of the dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, measuring a minimum of 2.4m x 4.8m, and the turning facilities, shall be retained for that purpose within the curtilage of the site.

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

14. No development shall take place until a site investigation to determine whether the land is contaminated and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:

- A. A desktop study of the area of the proposed development.
- B. 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.
- C. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
- D. 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.

15. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of any new external hard surfaces 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.

16. Notwithstanding the submitted application, large scale drawings to a minimum Scale of 1:10 of the handrail to the external stairs shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The handrail 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.

Informatives:

For the discharge of the site investigation, as a minimum, the report should include:

- a) Details of an overview of the initial walkover survey to including the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- b) Detailed on site sampling to identify any contamination.
- c) 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.
- d) An assessment of any off site impacts such as the effect on watercourses etc.
- e) A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- f) Plan of action if further contamination is identified during remediation.
- g) Details of the measures to verify that the contaminant has been removed to an acceptable level.
- h) The identification as to whether a long-term monitoring and maintenance programme is required, if so, details of the plans.
- i) Details of the long and short term risk to human health including the construction phase and post-development.
- j) 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:

- I. Model Procedures for the Management of Land Contamination CLR 11
- II. CLR Guidance notes on Soil Guideline Values, DEFRA and EA
- III. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
- IV. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- V. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- VI. Guidance for the Safe Development of Housing on Land Affected by Contamination' Environment Agency. ISBN 0113101775.

Soil contamination or the potential for it is a material planning consideration and must be taken into account by a local planning authority in the determination of a planning application. This site is suspected to be contaminated with chemicals associated with farming. The responsibilities for providing information on whether and how a site is contaminated rests with the developer, as does the subsequent safe development and secure occupancy of the site. Under these circumstances, you should undertake a site investigation and submit the results and remediation proposals as part of the planning application.

If a reclamation strategy is submitted and agreed by the planning authority compliance with it will be condition of any subsequent approval.

The developer will also be required to sign a completion certificate confirming that the works of reclamation have been carried out in accordance with the agreed strategy.

14/02/2006

Item 1.2**Reg. No.** 9/2006/0008/L**Applicant:**

Elizabeth Soane & Rosemary Pipes
 Shawcroft Robinsons Hill
 Melbourne
 Derbyshire
 DE738DJ

Agent:

James Soane
 Project Orange 1st Floor Morelands
 London
 EC14 8JU

Proposal: External and internal alterations to allow for the conversion of the first floor to a residential flat with studio space on the ground floor of The Stables Robinsons Hill Melbourne Derby

Ward: Melbourne

Valid Date: 03/01/2006

See Report 9/2005/1165 on this agenda

Recommendation

GRANT listed building consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.
 Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
2. All works of alteration and making good of the existing fabric of the building shall be carried out in matching reclaimed stone and plain clay tiles, samples of which shall have previously been submitted to and approved in writing by the Local Planning Authority.
 Reason: In the interests of the appearance of the building(s).
3. The extent of repointing works shall be agreed in writing by the Local Planning Authority before any such works are commenced.
 Reason: In the interests of the appearance of the building(s) and the character of the area.
4. Pointing of the existing/ proposed building(s) 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 the appearance of the building(s).

5. A sample panel of pointed brickwork/stonework 1 metre 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. The works shall be carried out in accordance with the approved sample.

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

6. Notwithstanding the submitted drawings large scale drawings to a minimum Scale of 1:10 of external and internal joinery (including the stairs), including horizontal and vertical sections, precise construction method of opening and cill and lintel details 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.

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, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

9. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

10. Notwithstanding the submitted application, large scale drawings to a minimum Scale of 1:10 of the handrail to the external stairs shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The handrail 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.

14/02/2006

Item 1.3**Reg. No.** 9/2005/1221/F**Applicant:**

Mr Mrs A Cooper
The Weavers
Dalbury Lees
Ashbourne
Derbyshire
DE65BE

Agent:

Ian Woore/Haydn Watkins
Peter Woore Watkins Partnership
61 Friar Gate
Derby
DE1 1DJ

Proposal: The demolition of the existing dwelling and the erection of one dwelling at Elmtree Cottage Dalbury Lees Ashbourne**Ward:** North West**Valid Date:** 20/10/2005

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

Site Description

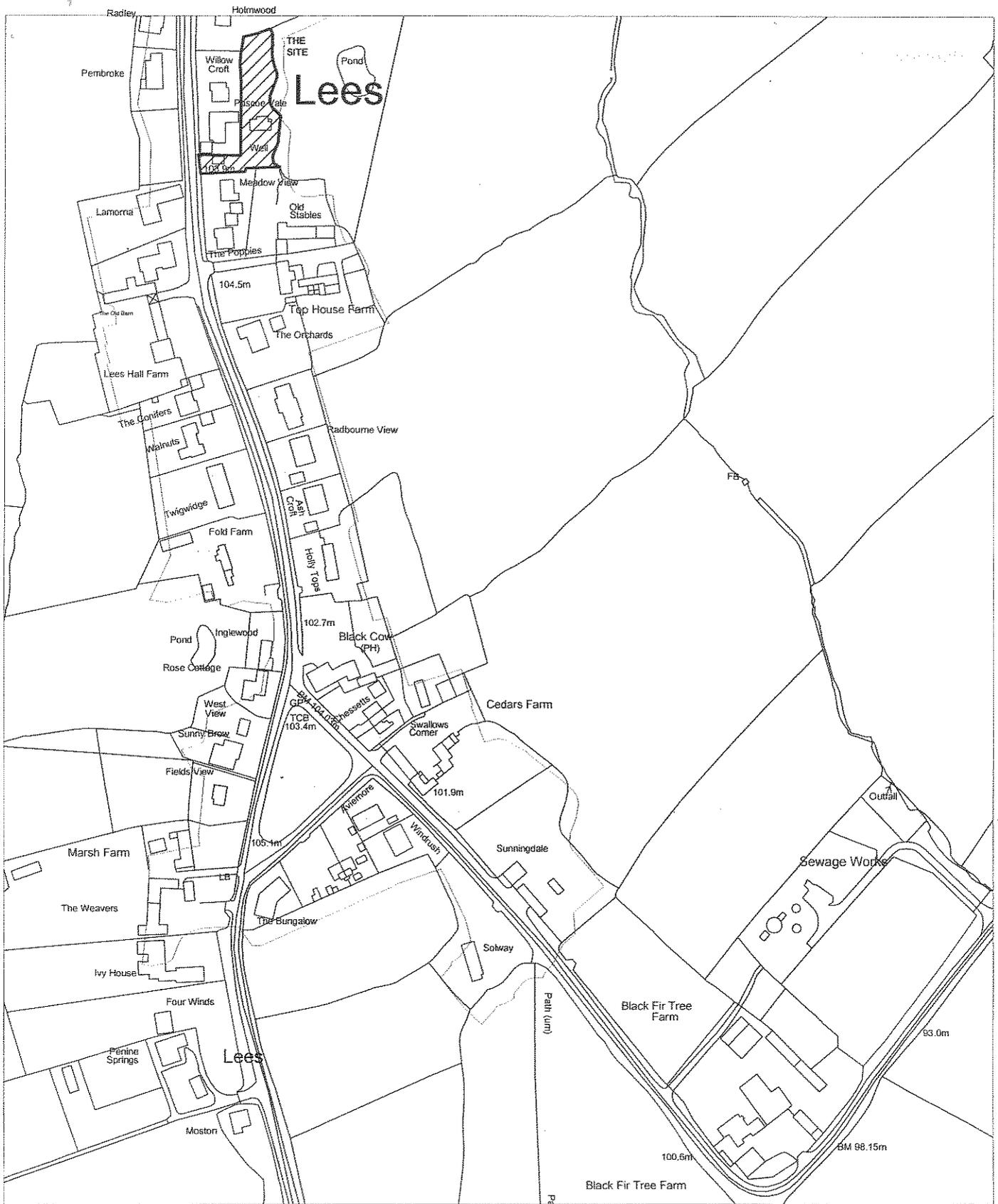
The site contains a cottage which has not been occupied for a considerable number of years. It is enclosed on all sides by hedges and sits about 450mm above the level of the properties that front onto the main road through Lees. A tree within the site has a TPO placed upon it and there are several fruit trees in the site as well as hedgerow trees such as ash and oak. The access to the site would be from the main road via the entrance that serves the existing cottage; this drive lies adjacent to the main windows of a dwelling known as Pascoe Vale.

Proposal

The proposal has been amended twice since submission to reduce the number of dwellings proposed on the site from 2 to 1 and moving the remaining dwelling further into the site. The proposed dwelling lies immediately to the rear of Pascoe Vale. It is a two storey dwelling with rooms situated in the roof. It has its main aspects looking to the east away from the property at the front with the exception of an oriel window that is a secondary window to the living room and a study in the front; the upper floor windows are to bathrooms or landings. An attached double garage would provide parking arrangements.

Applicants' supporting information

The application was amended in response to an objection from the County Highway Authority to the increased use of an access that has insufficient visibility splays. The second amendment moved the proposed dwelling further from the protected ash tree on the south boundary of the site.



**South Derbyshire
 District Council
 Civic Offices
 Civic Way
 Swadlincote
 DE11 0AH**

**9/2005/1221/F Elmtree Cottage
 Dalbury Lees
 Ashbourne**

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Date Plotted 2/2/2006

NORTH ↑

Plot centred at 426560 337233

Scale 1:2600

Planning History

There is no relevant planning history.

Responses to Consultations

The consultees have been reconsulted on the amended schemes; the comments below reflect the original responses to the application for two dwellings.

Dalbury Lees Parish Council strongly objects to the development as proposed for the following reasons:

- a) The number of dwellings in the village has nearly doubled in the past years and this is directly contrary to the provisions of PPS 7. The development that has taken place and is now proposed is not in keeping or of a scale that is commensurate with its location nor is it sensitive to the character of the countryside and local distinctiveness. This requirement is repeated in Housing Policy 5 of the adopted Local Plan. The density of the development that has been permitted is akin to that seen in an urban area and is utterly out of context with a small rural village.
- b) There is no basic infrastructure in the village to sustain this continued expansion. There is a pub but the nearest shops are in Mickleover some 5 miles away. Access to junior schools is by car and school busses provide access to the senior schools. Public transport is limited to a morning and afternoon service three times a week together with the community bus. The majority of movements to and from the village are by car and given the nature of the properties, most have 2 or 3 cars.
- c) The local and affordable housing needs of the locality are not being met by any of the development that has taken place or has been recently proposed.

Specific objections to the proposal as originally submitted are summarised below any comments in respect of the amended proposals will be reported at the meeting:

- a) Elmtree Cottage has no been occupied for over 25 years, thus there has been no traffic generated from the site, the increase in the number of dwellings would significantly increase the level of traffic using the access.
- b) There is a significant adverse impact on the occupiers of the dwellings that front onto the main road from numerous cars being parked behind them.
- c) The increase in the footprint of the dwellings above what is there now is detrimental to the character of the village contrary to PPS 7 and Housing Policy 5 of the Local Plan.
- d) There is inadequate amenity space around the dwelling.
- e) The site is somewhat higher than the adjacent dwellings and it is contended that the dwellings would overbear on the adjacent dwellings and cause overlooking.

The County Highway Authority objected to the application in its original form but comments are awaited in response to the amended scheme. Any additional comments in response to the amended proposals will be reported at the meeting.

Severn Trent Water has no objection subject to the submission of details of the disposal of foul and surface water disposal.

The Environmental Protection Manager has no comments.

Responses to Publicity

In response to the originally submitted application the following objections have been received in the form of a petition containing 37 signatures and 12 individual letters of objection. The objections can be summarised as follows:

- a) Poor road access with inadequate visibility to the north and roads to the south that regularly flood. The County Highway Authority has objected to the use of the access
- b) A lack of essential facilities in the village meaning that every additional vehicle adds more vehicle movements to gain access to the necessary facilities.
- c) The electricity supply is nearing its limit
- d) The high-density back land development would result in a significant change to the character of the village with two substantial dwellings replacing a small 2-bedroom cottage.
- e) The development is not sustainable and it was suggested that no further development should be permitted in the village. Nothing has changed in the village to suggest that a different view should be forthcoming. The development has been subjected to considerable development over the past 20 years and the pace has increase vastly in the last few years. Planning policy is not clear to the residents and there appears to be no acknowledgment by the Council that the village has probably passed its optimum size for its facilities and infrastructure. All applications should be put on hold whilst the District Council clarifies its policy.
- f) One property would be acceptable to replace the existing house.

One further letter has been received following the first reconsultation exercise; any subsequent comments received as result of the second consultation exercise will be reported at the meeting if received. The points made in the letter can be summarised as follows:

- a) The reduction in the density of the development is welcomed.
- b) There will be an impact on the adjoining dwelling because of the scale of the new development especially as the site is elevated above the level of those properties. If permission were granted, it is requested that the finished floor level be reduced to that of the adjacent properties.
- c) The extent of the parking and turning areas is excessive and out of proportion with the dwelling now proposed. Again if the dwelling were to be granted permission it is requested that the finished surface of such areas be limited to solid surface, not gravel as this would be a noisy surface affecting the main habitable room windows of the adjacent dwelling.
- d) Security lighting should be controlled to minimise its potential impact on the adjacent dwellings.
- e) Surface water drainage should be controlled so that the flows from the site do not inundate the adjacent dwellings.
- f) The rest of the trees in the site should also be protected by a tree preservation order like the ash next to the south boundary.

Development Plan Policies

The relevant policies are:

RSS8: Policies 2 & 3,

Joint Structure Plan: Housing Policy 5,

Local Plan: Housing Policy 5 & 8.

Planning Considerations

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

- The development plan
- The issue of abandonment
- The detailed design
- The impact on neighbours
- The access to the site

Planning Assessment

The development plan makes provision for the infilling of small gaps within built up frontages for not more than 2 dwellings. The existing cottage lies within the confine of the settlement identified in the Local Plan policy. Whilst this is not infilling defined in the policy, it would be difficult to argue that the replacement of the dwelling with another goes beyond the intentions of the policy that allows for the replacement of dwellings as set out in Housing Policy 8. Another relevant issue is that of abandonment. It is acknowledged that the dwelling currently on the site has not been occupied for a considerable number of years. However, no action was taken by its owners to establish any use other than residential at the property. Accordingly, in planning law there is no argument to establish a case to say that the residential use of the land has been abandoned. Thus the residential occupation of the dwelling could be recommenced and the access reused without further recourse to the planning system.

The replacement dwelling policy also requires that attention is given to the scale of the replacement dwelling and requires that it be substantially on the same site as the original dwelling. The dwelling proposed is larger than the existing but being within the built confine of the settlement and of a scale and appearance similar to other dwellings permitted in the village, it would be unreasonable to suggest that the creation of a dwelling that is in keeping with the South Derbyshire design tradition would be contrary to the Development Plan just because it is larger than the dwelling that exists on the site.

The impact on the neighbouring dwellings has been considered in the design of the proposed house. It is accepted that the ground upon which the dwelling sits at a higher level than its neighbours. However, none of the windows in the elevation facing the dwellings are main habitable room windows and those windows that are proposed, are at distances that exceed the minimum requirements of the Council's Supplementary Planning Guidance. The impact of residential traffic on the adjacent existing dwelling could occur without the Local Planning Authority being able to influence the reuse of the dwelling.

The County Highway Authority has no objection to a one for one replacement dwelling following its objection to the application as originally submitted.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 8729/12/B received under cover of your letter dated 11 January 2006.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. 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.
Reason: To protect the amenities of adjoining properties and the locality generally.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, there shall be no external alterations, including the insertion of new windows, to the buildings other than as approved under this permission.
Reason: In the interests of preserving the privacy of the occupiers of the adjacent dwellings.
5. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of protected trees 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
6. 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.
7. 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.
8. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
Reason: In the interests of the appearance of the building, and the character of the area.
9. The areas shown on the approved plan no for the parking and manoeuvring of vehicles shall be laid out, hard surfaced in a solid bound material (i.e. not loose chippings) and marked out prior to the first use of the development hereby permitted. Thereafter those areas shall remain unobstructed for their designated use.

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

10. 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.

14/02/2006

Item 1.4**Reg. No.** 9/2005/1491/O**Applicant:**

Alexander Hastings
 Kings Newton Hall
 Kings Newton
 Melbourne
 Derbyshire
 DE73 1BX

Agent:

Marchini Curran Associates
 1 Sampsons Yard
 Halifax Place
 Nottingham
 NG11QN

Proposal: Outline application (all matters to be reserved except for means of access and siting) for the erection of two dwellings at The Croft Weston Road Weston-on-Trent Derby

Ward: Aston

Valid Date: 23/12/2005

This application is brought to committee at the request of Councillor Atkin.

Site Description

The site is part of the large side garden to The Croft, containing various orchard trees. It lies within a ribbon of housing situated between the main built up parts of Weston on Trent and Aston on Trent. There is a rough paddock to the rear, in the ownership of the applicants but not forming part of the proposal.

Proposal

The application is in outline, with means of access and siting for consideration. The layout plan shows two dwellings generally aligned, relative to the road, with the bungalows at Grange Lynn and The Willows. One of the plots has a garage projecting forward of this line. The existing dwelling would be retained. Conjoined vehicular accesses would be formed at about the mid-point of the site frontage.

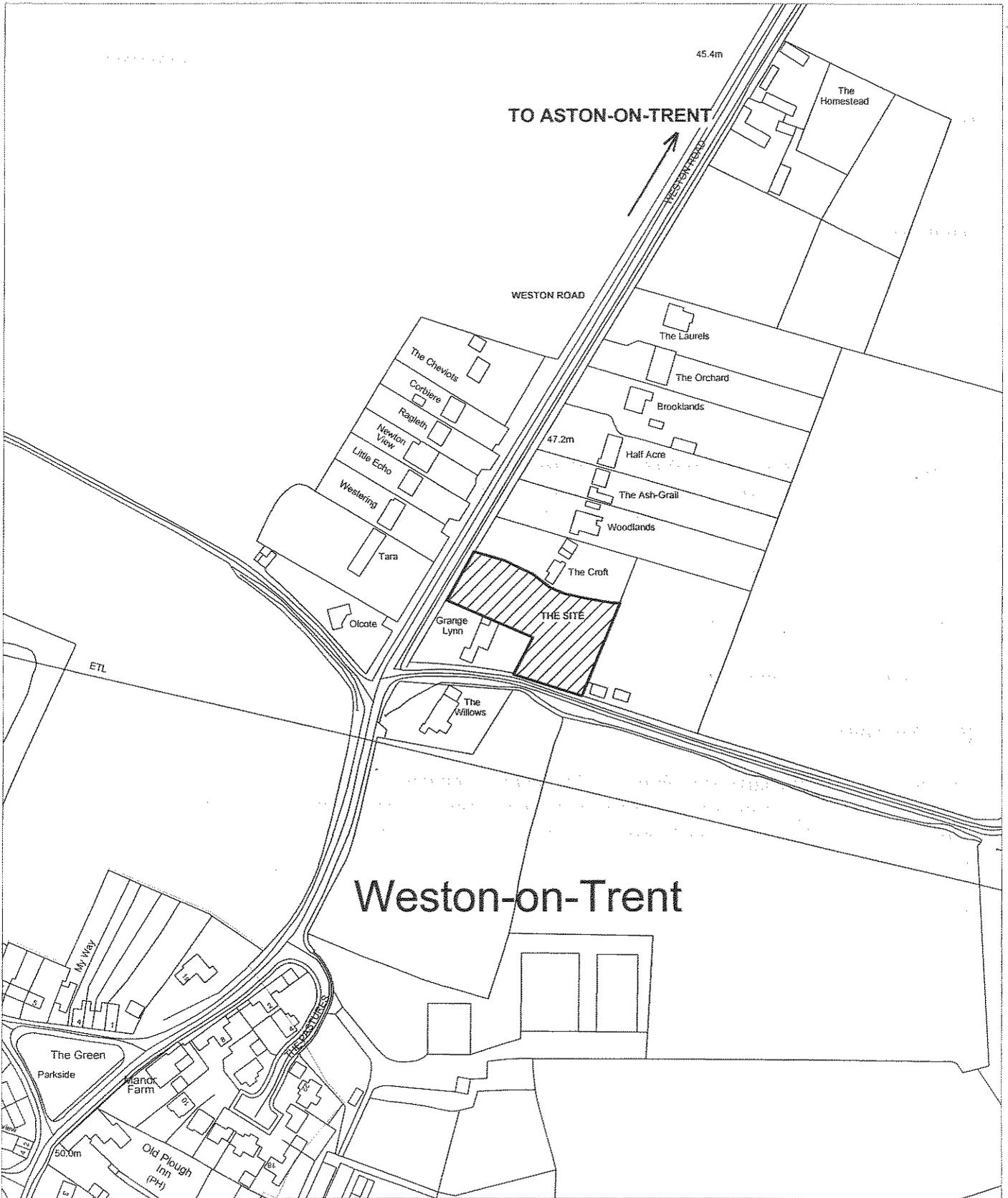
Planning History

Outline permission was granted last year for the demolition of the existing house and the development of two dwellings (9/2005/0170/O).

Responses to Consultations

The Parish Council objects for the following reasons:

- a) Three houses would be gross over-development.



 <p>South Derbyshire District Council Civic Offices Civic Way Swadlincote DE11 0AH</p>	<p>9/2005/1491/O The Croft Weston Road Weston-on-Trent</p> <p>Crown Copyright. All rights reserved. South Derbyshire District Council OS Licence No. LA 100019461. 2005</p>	<p>Date Plotted 2/2/2006</p> <p>Plot centred at 440697 328476</p>	<p>NORTH ↑</p> <p>Scale 1:2500</p>
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- b) Plot 2 would be out of character with other houses in the area where each house sits in the middle of its own wide plot.
- c) There would be no objection to a total of 2 houses as previously permitted.

The Highway Authority has no objection subject to conditions.

Responses to Publicity

None received.

Development Plan Policies

The relevant policies are:

RSS8: Policies 3 & 47.

Joint Structure Plan: General Development Strategy Policies 1 & 3 and Housing Policy 5.

Local Plan: Housing Policies 6 & 11.

Planning Considerations

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

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

Planning Assessment

The site lies outside the confines of the village as defined in the adopted Local Plan but is clearly located within an established built up ribbon of housing. Two dwellings fronting the highway are proposed, on land that is part of the curtilage of The Croft. As such the proposal meets the infill criteria set out in Housing Policy 6 of the adopted Local Plan and the definition applied by the Council to implement the provisions of PPG3 for development outside serviced villages, through the former emerging local plan process, as referred to in the Planning Position Statement.

The layout of the dwellings in relation to the street would not be incompatible with the general pattern of development, comprising detached housing of mixed design and size, at varying distances from the highway boundary. Whilst there would be a loss of fruit trees the main streetscape contribution made by vegetation is at the site frontage. This feature could be retained on the application site (except for the access) and enhanced by condition. In these circumstances the proposal would not harm the general character of the locality.

Subject to the consideration of detail design the proposal is capable of meeting supplementary planning guidance for the design and layout of new housing. Therefore there would be no demonstrable harm to the amenities of neighbours.

Subject to the recommended conditions of the Highway Authority there would be no harm to highway safety interests.

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

Recommendation

GRANT permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
 (b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
 Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the design and external appearance of the buildings and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.
 Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
 Reason: In the interests of the appearance of the area.
4. Before any other operations are commenced, the new vehicular access to Weston Road shall be provided and laid out in accordance with specifications that shall have previously been submitted to and approved in writing by the Local Planning Authority. The access shall be concurrently provided with 2m x 2m pedestrian intervisibility splays and 2m x 90 m visibility sightlines. The area in advance of the splays and sightlines shall be cleared and thereafter retained clear of all obstructions greater than 1 m in height (600 mm in the case of vegetation) relative to the adjoining nearside carriageway channel level.
 Reason: In the interests of highway safety.
5. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms three cars, in any other case two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces (in the case of dwellings with four or more bedrooms) or two parking spaces (in any other case), measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.
 Reason: To ensure that adequate parking/garaging provision is available.

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. No development shall take place until a site investigation to determine whether the land is contaminated and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:
- A. A desktop study of the area of the proposed development.
 - B. 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.
 - C. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
 - D. 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.

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.

For the discharge of the site investigation, as a minimum, the report should include:

- a) Details of an overview of the initial walkover survey to including the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- b) Detailed on site sampling to identify any contamination.
- c) 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.
- d) An assessment of any off site impacts such as the effect on watercourses etc.
- e) A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- f) Plan of action if further contamination is identified during remediation.
- g) Details of the measures to verify that the contaminant has been removed to an acceptable level.
- h) The identification as to whether a long-term monitoring and maintenance programme is required, if so, details of the plans.
- i) Details of the long and short term risk to human health including the construction phase and post-development.

j) 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:

- I. Model Procedures for the Management of Land Contamination CLR 11
- II. CLR Guidance notes on Soil Guideline Values, DEFRA and EA
- III. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
- IV. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- V. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- VI. Guidance for the Safe Development of Housing on Land Affected by Contamination' Environment Agency. ISBN 0113101775.

Soil contamination or the potential for it is a material planning consideration and must be taken into account by a local planning authority in the determination of a planning application. This site is suspected to be contaminated with chemicals associated with farming. The responsibilities for providing information on whether and how a site is contaminated rests with the developer, as does the subsequent safe development and secure occupancy of the site. Under these circumstances, you should undertake a site investigation and submit the results and remediation proposals as part of the planning application.

If a reclamation strategy is submitted and agreed by the planning authority compliance with it will be condition of any subsequent approval.

The developer will also be required to sign a completion certificate confirming that the works of reclamation have been carried out in accordance with the agreed strategy.

Item 1.5

Reg. No. 9/2005/1493/F

Applicant:

P N S J & N R Ascott
C/O Agent

Agent:

D Graham Campbell
The Mill Repton Road
Bretby
Burton On Trent
Staffordshire
DE15 0RG

Proposal: The demolition of existing buildings and the conversion of outbuildings into two live/work units, the erection of extensions and a detached building at Hoofies Farm Repton Road Hartshorne Swadlincote

Ward: Hartshorne/Ticknall

Valid Date: 20/12/2005

This application brought to the Committee at the request of Councillor Bell.

Site Description

Hoofies Farm is a courtyard complex of brick and tile 19th Century farm buildings at the end of a 380m long private track off Repton Road. The farmhouse occupies the northwest corner of the quadrangle. A Public Footpath runs passed the farm buildings along its western and southern sides. Glimpses of the buildings can also be seen from Repton Road some 190m away as the crow flies.

Proposal

It is proposed to convert the former farm buildings into two live/work units. Unit 1 would consist of 334sqm. of floor space of which 22% (72sqm.) would be work space. Unit 2 would consist of 369sqm. of which 21% (79sqm.) would be work space. The proposal would involve the demolition of the southern section of the quadrangle. Its appearance suggests it being a later building due its wider roof span and differing brickwork. A lower and narrower building would be erected in its place connected at 90° to the main building.

A large steel framed building would be removed from the eastern side of the complex and a brick and tile utility building erected to serve both dwellings, which would be 7.2m wide by 6m deep by 2m to the eaves and 5.1m to the ridge.

The proposed residential curtilage has been drawn tight to the eastern side of the building to avoid the provision of domestic gardens, with the exception of two timber deck areas, 4.5m by 4m, which would be accessed from door openings in the eastern elevation.

The amount of new openings has been kept to a minimum.

Planning History

Planning permission was granted in February 2005 to convert the buildings into three live/work units. This permission is still extant but has not been implemented. Unit 1 would have 255sqm of floor space of which 32% (83sqm) would be work space; unit 2 would have 357sqm of which 32% (115sqm) would be work space; unit 3 would have 297sqm of which 28% (86sqm) would be work space. A condition of the planning permission was: *"The designated workspace of each live/work unit shall be at no time less than between 25% and 40% of the total floor area of each unit and its area of residential floor space shall at no time exceed between 60% and 75%."* Due to the substandard visibility at the access a further condition was included stating that: *"The workspace shall be restricted to the sole use of the occupant of the dwelling unless otherwise agreed in writing by the Local Planning Authority"*.

Responses to Consultations

The Parish Council considers this to be unsuitable development for a rural environment.

The Highway Authority raises no objection to the proposal in view of the reduction in vehicular movements as compared to the previous approval and subject to a condition restricting the use of the office space to the occupants of the dwellings in order to minimise the number of vehicle movements at the access on to Repton Road where visibility is less than ideal.

The Environment Agency raises no objection subject to the provision of adequate foul drainage.

The pollution control officer recommends that in view of the previous farming use the ground be surveyed for contaminants and any remediation undertaken.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

RSS8: Policy 2 and 3

Joint Structure Plan: Housing Policy 6

Local Plan: Housing Policy 7

Government Policy: PPS7: Sustainable Development in Rural Areas

Planning Considerations

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

- The reuse of traditional brick and tile farm buildings in the countryside
- The sustainability of the live/work units

Planning Assessment

The most recent policy guidance on the reuse of buildings in the countryside can be found in PPS7 (July 2004). It states that the Government's policy is to support the re-use of appropriately located and suitably constructed existing buildings in the countryside where this would meet sustainable development objectives. It says that re-use for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations, and for some types of building.

Policy gives preference to economic development. However, the Highway Authority considers that a wholly business use would not be acceptable due to the inadequate access to Repton Road and the means of improving the access would be outside the applicant's control. In any event, the removal of roadside hedges to secure the required visibility would have a harmful visual impact on the appearance of the countryside. The remaining options therefore are for wholly residential, live/work units or for the buildings to remain unused. Rather than allow these attractive buildings to fall into further disrepair, reuse is preferred provided it is sensitively achieved. The sustainability benefit of live/work units is that it gives the occupants the opportunity to work from home, which would be more sustainable than having to commute to their workplace. In addition, two live/work units rather than three as previously approved would be beneficial as private car use from the site would be reduced by one third as would general domestic activity in the vicinity of the building which would be advantageous to its character and the countryside. The reduction to two units would also mean that no visibility improvements would be required onto Repton Road and therefore the roadside hedges would remain intact.

The proportion of workspace to living area has been reduced on this scheme and this is reflected in the recommended condition. Members may feel that this has diluted the live/work concept to an unacceptable extent and that the apportioning of the floor area should be amended to achieve the 25% minimum as previously approved. It should be borne in mind however that due to the sub-standard access the Highway Authority recommends that the work units should be used solely by the occupiers and therefore the proposed area would probably be sufficient for one or two people.

The proposal addresses as far as it can the concerns arising from the impact residential use can have on the character of the building and the countryside. To this end, apart from the decking area, no domestic gardens beyond the outer walls of the farm buildings are proposed. In addition, pre-application negotiations have resulted in the least amount of new openings in the buildings being formed and for a section of the building to be replaced with one that is more in keeping with the style and proportions of the original. Whilst a new utility building, the size of a double garage, would be constructed a much larger steel framed building would be removed resulting in a net gain visually.

These are attractive nineteenth century brick and tile farm buildings located in a picturesque setting adjacent to a public footpath, and a scene that is worthy of retention for future generations. One school of thought would be to leave the buildings as they are and allow them to decline through lack of use to the point where they would need to be demolished. The other, as proposed, is to give them a new lease of life with an alternative economically viable use whilst removing, as far as possible, through design, planning conditions and legal arrangements the potentially damaging effects of a domestic use in this location.

The live/work element gives the occupier the opportunity of working next to their home, which would reduce reliance on the private car. The work areas would be retained by planning condition as a facility for future occupiers, but if they are not used and remain vacant for whatever reason then it is not the intention that the occupiers should be required to leave the property. To apply a condition to this effect is likely to be ultra vires on grounds of unreasonableness.

On balance, therefore, the proposal is supported.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. No development shall commence on site in connection with this approval until samples of materials for the external surfaces of the development 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 materials.

Reason: To ensure the materials are appropriate to safeguard the character of the building and the appearance of the surrounding area.

3. Pointing of the existing/ proposed buildings 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 the appearance of the building and the surrounding area.

4. No development shall commence on site in connection with this approval until large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details have been submitted to and approved in writing by the Local Planning Authority. 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.

5. External joinery shall be in timber and, prior to the development being brought into use, painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.

Reason: In the interests of safeguarding the character of the buildings and the appearance of the area.

6. Notwithstanding any details submitted, no development shall commence on site in connection with this approval until precise details of the type and size of the proposed rooflights, which shall be the conservation type, have been submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the character of the buildings and the appearance of the area.

7. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the interests of safeguarding the character of the buildings and the appearance of the surrounding 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, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: In the interests of safeguarding the character of the building and appearance of the area.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, no development under Schedule 2 Part 1 Class A, B, C, D, E and H and Part 2 Class A of the Order shall be carried out without the prior planning permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over further development of the buildings and curtilage in the interests of safeguarding the character of the building and appearance of the surrounding area.

10. The development shall not be brought in to use until the steel framed building on the south east side of the building has been removed from the site.

Reason: To enhance the setting of the building to be converted and the appearance of the area.

11. 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 safeguarding the setting of the buildings to be converted and the appearance of the area.

12. The designated workspace of each live/work unit shall be at no time less than between 20% and 40% of the total floor area of each unit and its area of residential floor space shall at no time exceed between 60% and 80%.

Reason: To ensure each unit does not become purely residential in the future as this would be contrary to the best interests of sustainable development.

13. No development shall commence on site in connection with this approval until details of the internal works for conversion to work space, including electricity points, telephone/computer points, heating, flooring and decoration have been submitted to and approved in writing by the Local Planning Authority and the approved details shall be carried out before the dwelling to which it relates is first occupied.

Reason: The Local Planning Authority wishes to ensure that the workspace component of the development is available for use prior to occupation of the dwellings to which they relate in the interests of sustainable development.

14. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping.

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

15. Further to condition 14 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.

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

16. 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.

17. No development shall commence on site in connection with this approval until a scheme for the provision of foul drainage works has been submitted to and approved by the Local Planning Authority. No part of the development shall be brought into use until approved drainage scheme has been fully implemented.

Reason: To prevent pollution of the water environment.

18. The work spaces shall be restricted to the sole use of the occupants of the dwellings unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety to prevent potential increase in the use of the access onto Repton Road where visibility is substandard.

14/02/2006

Item 2.1**Reg. No.** 9/2005/1393/F**Applicant:**

Mr Mrs K Ellis
 Egginton Hall
 Church Road
 Egginton
 Derby
 DE65 6HP

Agent:

Mr Mrs K Ellis
 Egginton Hall
 Church Road
 Egginton
 Derby
 DE65 6HP

Proposal: Alterations to existing plant room to form garden store with storage above at Egginton Hall Church Road Egginton Derby

Ward: Etwall

Valid Date: 24/11/2005

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

Site Description

The site is a small part of the overall site of the Egginton Hall building and land. The building is located immediately adjacent to the access drive. It is a 1½ storey flat roof structure that has a yard that is enclosed by a brick wall. A Tree Preservation Order protects the trees in the vicinity of the site.

Proposal

In order to provide additional storage within the building it is intended that the existing structure be provided with a pitched roof. In terms of the differences with the previous applications that have been submitted recently for this building, the shaped barge and eaves boards have been omitted in favour of a straight boards. The number of openings remains the same and the window openings retain their ornate appearance. It is also proposed that that part of the boundary wall be reduced in height and a pedestrian gate introduced to provide access from the main drive.

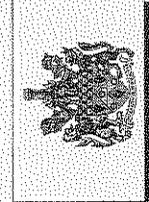
Applicants' supporting information

The applicant invites the Committee to visit the site to see for themselves the application building.

9/2005/1393/F & 9/2005/1394/U Egginton Hall

Church Road

Egginton



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

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Date Plotted 2/2/2006
Scale 1:2500
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Planning History

There have been two recent cases, both refused, one for the conversion to a dwelling (now the subject of an appeal), the second for a live work unit. Previously there had been no planning applications affecting the building. There is a concurrent application for the conversion of this building to workshop use (see application 9/2005/1394 on this agenda).

Responses to Consultations

Egginton Parish Council is concerned that two recently unsuccessful applications to convert an area to residential accommodation have now resulted in an attempt to obtain the accommodation via an alternative route. It thus objects to the application on similar grounds as before. Whilst it is to be used as a garden store, it would be useful to know what is to be stored above. If permitted the Parish Council would wish to see a condition imposed so that this building is not used as [residential] accommodation.

Although the issue of flooding has been an issue previously, the use of the building as a store does not trigger a consultation with the Environment Agency.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

RSS8: none

Joint Structure Plan: General Development Strategy Policy 4,

Local Plan: Environment Policy 1.

Planning Considerations

The main issues central to the determination of this application are the compliance or otherwise with the Development Plan and especially the impact of the conversion on the character and appearance of the area.

Planning Assessment

General Development Strategy Policy 4 of the adopted Structure Plan and Environment Policy 1 seek to limit development in the countryside to that which is necessary in a countryside location and requires that the alterations to the building would be sympathetic to the bulk and general design to the character and design of the building and is in keeping with its surroundings.

The use of the ground floor as a garden store could be undertaken without planning permission and as such is acceptable in planning policy terms. The main issue is the effect of the conversion on the appearance of the building and the impact of that conversion on the character and appearance of the area.

The building if converted in the manner proposed would be significantly altered. The building has a simple utilitarian appearance that reflects its previous use. It is a 1½ storey building constructed in brick with a flat roof. It has limited openings and is enclosed on its east side by a wall.

The issues in this case are very finely balanced; the principle of the use is generally acceptable but the policies also require that conversions be in keeping with the building and its surroundings. The proposed alterations show that the building would undergo substantial changes to its existing appearance. Several new openings would be inserted; a pitched roof would be applied. The openings would be ornate and the roof would be trimmed in timber bargeboards. All of these elements contribute to altering the character and appearance of the building. It would be possible to make use of the building as a garden store without making alterations in the style proposed. Given the scope of the alterations and the ultimate appearance of the building, the development is considered contrary to the provisions of the Development Plan.

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

Recommendation

REFUSE permission for the following reason:

The character and form of the existing building does not render itself suitable for conversion without extensive alteration and extension such that the utilitarian character of the original building would be altered beyond recognition contrary to Environment Policy 1 of the adopted Local Plan and General Development Strategy Policy 4 of the Derby & Derbyshire Joint Structure Plan in as far as it deals with the adaptation and change of use of a building.

Item 2.2

Reg. No. 9/2005/1394/U

Applicant:

Mr Mrs K Ellis
Egginton Hall
Church Road
Egginton
Derby
DE65 6HP

Agent:

Mr Mrs K Ellis
Egginton Hall
Church Road
Egginton
Derby
DE65 6HP

Proposal: **Convert garden store to work unit (B1 use) Egginton Hall
Church Road Egginton Derby**

Ward: **Etwall**

Valid Date: **24/11/2005**

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

Site Description

The site is a small part of the overall site of the Egginton Hall building and land. The building is located immediately adjacent to the access drive. It is a 1½ storey structure that has a yard that is enclosed by a brick wall. A Tree Preservation Order protects the trees in the vicinity of the site.

Proposal

In order to provide the workshop within the building it is intended that the existing structure be provided with a pitched roof. In terms of the differences with the previous applications that have been submitted recently for this building, the shaped barge and eaves boards have been omitted in favour of a straight boards. The number of openings remains as previously approved and the window openings retain their ornate appearance. It is also proposed that that part of the boundary wall be reduced in height and a pedestrian gate introduced to provide access from the main drive.

Applicants' supporting information

The applicant invites the Committee to visit the site to see for themselves the application building.

Planning History

There have been two recent cases, both refused, one for the conversion to a dwelling (now the subject of an appeal), the second for a live work unit. Previously there had been no planning applications affecting the building. There is a concurrent application for the conversion of this building to storage use (see application 9/2005/1393 on this agenda).

Responses to Consultations

Egginton Parish Council is concerned that two recently unsuccessful applications to convert an area to accommodation have now resulted in an attempt to obtain the accommodation via an alternative route. It thus objects to the application on similar grounds as before. However, it adds that if permission is granted, it would wish to see a condition imposed that would limit the use of the area for business use working from home only not as accommodation (i.e. it would object to an increase in vehicles visiting the property).

The County Highway Authority has no objection subject to the provision of appropriate parking and manoeuvring space.

The Environmental Protection Manager would wish to see the hours of operation limited to 0900 – 1700 Monday to Friday as specified in the application. Any change to the use proposed should be the subject of a separate application so that the alternative use can be assessed for its impact on the adjacent property.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

RSS8: none

Joint Structure Plan: General Development Strategy Policy 4, Economy Policy 5,

Local Plan: Environment Policy 1, Employment Policy 4.

Planning Considerations

The main issues central to the determination of this application are compliance with the Development Plan and especially the impact of the conversion on the character and appearance of the building and the area generally.

Planning Assessment

General Development Strategy Policy 4 of the adopted Structure Plan and Environment Policy 1 seek to limit development in the countryside to that which is necessary in a countryside location. Economy Policy 5 of the Structure Plan and Employment Policy 4 of the Local Plan state that the conversion of existing buildings to employment use can be acceptable where injury is unlikely to be caused to local amenities or the environment and that the proposal is in keeping with the building and its surroundings.

Whilst the site lies outside of Egginton, it is reasonably well related to the village and the re-use of this building for employment purposes could make a small contribution to the local rural economy. In this way the proposal could be considered sustainable. Therefore, the reuse of a redundant rural building for employment purposes is acceptable under the provisions of the above-mentioned policies.

The second issue is the effect of the conversion on the appearance of the building and the impact of that conversion on the character and appearance of the area. The building if converted in the manner proposed would be significantly altered. The building has a simple utilitarian appearance that reflects its previous use. It is a 1½ storey building constructed in brick with a flat roof. It has limited openings and is enclosed on its east side by a wall.

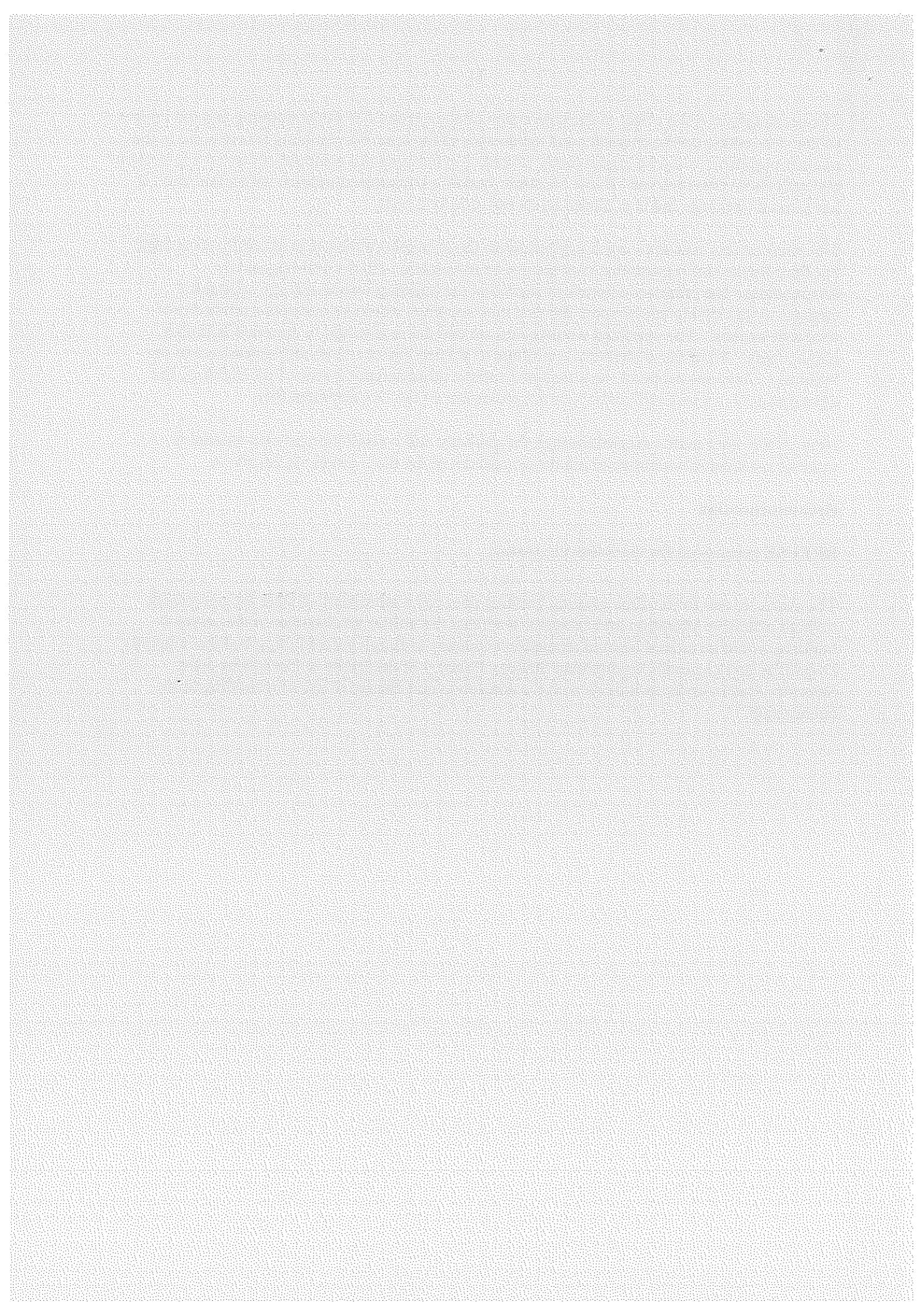
The issues in this case are very finely balanced; the principle of the use is generally acceptable but the policies also require that conversions be in keeping with the building and its surroundings. The proposed alterations show that the building would undergo substantial changes to its existing appearance. Several new openings would be inserted; a pitched roof would be applied. The openings would be ornate and the roof would be trimmed in timber bargeboards. All of these elements contribute to altering the character and appearance of the building. Given the scope of the alterations and the ultimate appearance of the building, the development is considered contrary to the provisions of the Development Plan.

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

Recommendation

REFUSE permission for the following reason:

The character and form of the existing building does not render itself suitable for conversion without extensive alteration and extension such that the utilitarian character of the original building would be altered beyond recognition contrary to Employment Policy 4 of the adopted Local Plan and General Development Strategy Policy 4 of the Derby & Derbyshire Joint Structure Plan in as far as it deals with the adaptation and change of use of a building in the countryside.



2. PLANNING AND OTHER APPEALS





Appeal Decision

Site visit made 5 December 2005

by **Derek Sleath LLB**

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
email: enquiries@planning-
inspectorate.gsi.gov.uk

Date 5/1/06

Appeal Ref: APP/F1040/A/05/1189279

149 Woodville Road, Overseal, Swadlingcote, Derbyshire DE12 6LX

- 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 David and Jacqueline Simpson against the decision of South Derbyshire District Council.
- The application Ref 9/2005/0694/U. dated 8 June 2005, was refused by notice dated 1 August 2005.
- The development proposed is 'change of use of garage to facilitate a dog grooming service. Proposing to change garage door to a door and window and possibility of door on side of garage'.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The Council contends that the proposed alterations to the garage were to be dealt with separately and that the proposal was therefore considered as a change of use only. The appellants contest this and claim that plans showing details of the alteration were submitted with the application and that the materials were included on the application form. I established at the site visit that the submitted plans do not show any details of the proposed alterations. However, in the absence of any evidence that this element of the application was withdrawn, I have determined the appeal on the basis that it relates both to the change of use and the alterations.

Main Issue

2. I consider there to be two main issues:

The effect of the proposals on road safety.

The effect of the proposals on the living conditions of neighbours with regard to noise.

Planning Policy

3. The development plan includes the South Derbyshire Local Plan adopted 1998. Transport Policy 6 states that planning permission will not be granted for development which interferes with the free and safe flow of traffic. Housing Policy 14 states that development associated with residential areas will be permitted provided that the design and layout of the access, off-street parking and servicing is adequate and that local amenity is protected, including avoidance of unacceptable traffic flows through residential areas, and high noise levels.
-

Reasons

4. The proposal involves the change of use of the garage to use for a dog grooming service, the removal of the garage door and its replacement with a door and window, as well as the insertion of an additional side door.

Road Safety

5. The appeal site is within a mainly residential area, but other retail and service outlets exist on the same road and within five hundred metres or so. I note that the roadway narrows at this point and that parking may be at a premium, particularly when children are being dropped off or collected from the nearby school. However, I saw that there is sufficient space on the existing driveway to accommodate three large vehicles. There is also space in front of the house where a smaller car could be parked. In the light of this and the nature of the business that is proposed, I consider that the number of vehicles that would visit the premises during the course of a normal working day would be unlikely to result in an increase in on-street parking. In consequence I conclude that the proposal would not harm road safety and would comply with the objectives of Transport Policy 6.

Noise

6. The main concerns appear to relate to traffic noise and barking from dogs attending the premises. In my view, given the size of the premises I consider that vehicular traffic generated by the business would be relatively light, even if it were to intensify beyond the level currently envisaged by the appellants. In the circumstances, I consider that in this case any increase in traffic noise would be marginal and would not harm the living conditions of adjoining residents.
7. Turning to the question of the barking of dogs, I note the appellants' suggestion that the problems at their previous address would not occur here because it would not be necessary for clients to bring their dogs past the appellants' own dogs. However, whilst I accept that the business would be small scale, I am not satisfied that it would always be possible to prevent clients arriving in advance of their appointment or to ensure that dogs were always collected on time. Consequently, there remains a significant possibility that dogs would come into contact on a regular basis. This would be likely to result in periods of barking. Even if such contact could be avoided, it seems likely that some animals would bark when left by, or being reunited with their owners. Moreover, if the business were to increase in size there would be pressure for the garden of the premises to be used for kennelling to provide temporary accommodation while dogs were waiting to be groomed or collected.
8. The garden of the nearest property is just 1.69 metres distant from the garage wall and although barking noise might be reduced were the dogs in the garage and the neighbours in their house, the opening of windows for ventilation or reasonable enjoyment of the garden space would be likely to be affected by such noise. I conclude that the proposal would be harmful to the living conditions of neighbours with regard to noise from dogs barking. This would be contrary to Housing Policy 16 of the South Derbyshire Local Plan.
9. I have considered whether the question of keeping dogs apart prior to and after appointments could be dealt with by way of a condition. However, in my view it would be difficult for neighbours to distinguish between the barking of the appellants' dogs and those

brought to the premises by clients. As such I consider that such a condition would be unenforceable.

10. I appreciate that in themselves the proposed alterations to the garage would not harm road safety or the living conditions of neighbouring occupiers. However, the changes would appear to be an integral part of the proposed change of use and in the absence of any detailed drawings, I do not consider it would be appropriate to grant permission for these alterations in isolation.

Other Matters

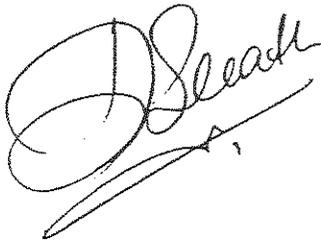
11. I note that the appellants have the support of the Parish Council which is unaware of any previous complaints about the appellants' business. I have considered these representations but they are not of sufficient weight to override my conclusions on the main issues.

Conclusions

12. I conclude that the proposals would not harm road safety and would not give rise to additional traffic noise. However, neither of these factors is sufficient, in my view, to outweigh the harm that I have identified to the living conditions of neighbours arising from the noise of barking dogs. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal decision

13. I dismiss the appeal.

A handwritten signature in black ink, appearing to read 'D Seach', with a long horizontal stroke underneath.

INSPECTOR





Appeal Decision

Site visit made on 22 November 2005

by **Karen L Ridge LLB (Hons)**

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date

18 JAN 2006

Appeal Ref: APP/F1040/A/05/1188619

The Willow Tree, Burnaston, Derby, DE65 6LG

- 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 Mrs Haslam against the decision of South Derbyshire District Council.
- The application (Ref 9/2005/0225/FH), dated 16 February 2005, was refused by notice dated 9 May 2005.
- The development proposed is to raise the roof of the existing house to provide additional first floor area and reposition the garage from rear to front.

Summary of Decision: The appeal is dismissed.

Main Issue

1. I consider that there is one main issue in this case, that is the effect of the proposed development on the living conditions of the occupiers of numbers 1, 2 and 3 Manor Farm Mews in relation to outlook and light.

Planning Policy

2. The development plan includes the South Derbyshire Local Plan (LP) adopted in 1998. Housing Policy 13 concerns residential extensions and is concerned to ensure that extensions will not be detrimental to adjoining occupiers. The South Derbyshire Local Plan Revised Deposit Draft dated January 2003 has been withdrawn.
3. The Council have also published Supplementary Planning Guidance (SPG), entitled 'Extending your Home' which was adopted in 2004 following public consultation. Accordingly I shall give it substantial weight.

Reasons

4. The appeal site comprises a chalet bungalow and its curtilage on the south west side of Main Street. On the north west boundary of the site there are a series of joined farm buildings known as numbers 1, 2 and 3 Manor Farm Mews which run parallel to this common boundary. Number 1 fronts onto Main Street and is a two storey 'L' shaped building with a small rear garden adjacent to the boundary with the appeal property. Permission has been granted for the conversion of the one storey building at number 2 Manor Farm Mews but it has not yet been implemented. Number 3 is a two storey conversion at the rear of the farm buildings furthest away from the Main Street frontage.

5. The proposal is to raise the roof of the existing dwelling in order to create a first floor and to relocate the detached garage from the rear of the appeal site to the front closest to Main Street. The existing ridge line would be increased by some 1.2 metres whilst the eaves line would be increased from its current height of about 2.7 metres to an overall height of about 5.1 metres. In addition the front door of the dwelling would be relocated from the longer side elevation to the shorter front elevation facing Main Street.
6. Number 1 Manor Farm Mews has two ground floor windows on the elevation directly facing the appeal property some 12 metres away. In addition there are patio doors on the south west elevation overlooking a small patio area in the rear garden of number 1 and two further small windows on the side elevation of 1 Manor Farm Mews which would be directly facing the side elevation of the new garage. Number 1 has a very small rear garden with a low fence on its' boundary with the appeal site.
7. The side elevation of the appeal property is approximately 16.5 metres long and an increase in the eaves to 5.1 metres would represent a significant increase in the overall massing of this side elevation. At a separation distance of just 12 metres this would have a significantly detrimental effect on the outlook of the occupiers of 1 Manor Farm Mews both from the ground floor windows and especially in relation to the use of the rear garden. The Council's SPG sets out guidelines in relation to neighbouring extensions designed, amongst other things, to protect outlook and light. The appeal proposal does not fit neatly into the scenarios suggested by the SPG guidelines and must therefore be dealt with on its merits. It is my view that the extension would have an overbearing and oppressive appearance when viewed from no.1 and therefore it would be contrary to the intentions of the Council's SPG.
8. The proposal is located to the south-east of 1 Manor Farm Mews and because of the close proximity of the appeal property to no. 1 and the orientation of the two properties, it is evident that there would be some loss of sunlight and a possible reduction in daylight for the occupiers of no. 1 and this would be detrimental to living conditions.
9. Notwithstanding the fact that number 2 Manor Farm Mews remains unconverted, it is apparent that the south-east elevation of no. 2 would be a main elevation directly opposite the side elevation of the appeal property. No. 2 would have a very small rear garden similar to that of no. 1. I consider that the proposal would have a similarly detrimental effect on the outlook of any potential occupier of number 2 due to the proximity of the appeal property to no.2 and the orientation of the two properties. In relation to light, I am of the opinion that there could be some diminution in sunlight and daylight to the windows of no.2 which of itself would not warrant a dismissal of this appeal but nevertheless this adds to my concerns.
10. The effect of the proposal on number 3 Manor Farm Mews would be limited. Number 3 is offset from the appeal property and there are only oblique angles between the elevations of the two properties. I do not consider that the appeal proposal would result in any significant effect on the living conditions of the occupiers of no. 3 in terms of either outlook or by any significant diminution of light.
11. The separation distance between the appeal property and the Manor Farm Mews properties was considered acceptable when planning permission was granted for the appeal property. However, the circumstances are different in that the appeal property is set in its own large gardens and does not have the small gardens of the Manor Farm Mews properties nor

indeed would it have the sense of increased enclosure that numbers 1 and 2 would have if the proposal were to be allowed to go ahead.

12. I note the appellants' contention that the privacy of the occupiers of the Manor Farm Mews properties would not be significantly affected by the proposal and indeed I accept that there could be some benefit to privacy levels by the relocation of the front door and garage. However these potential improvements would not outweigh the harm which would be caused by the proposal. Overall I consider that the proposed development would be detrimental to the living conditions of the occupiers of 1 Manor Farm Mews and the potential occupiers of 2 Manor Farm Mews in relation to outlook and light. It would therefore be contrary to Housing Policy 13 of the LP and the Council's SPG.

Other Matters

13. The Parish Council have made representations that the proposal would have an adverse effect on the street scene. The buildings fronting onto Main Street are a variety of property types and sizes. The blank side elevation of the garage would face onto Main Street and would present a less attractive frontage than presently exists and this also adds to my concerns.

Conclusions

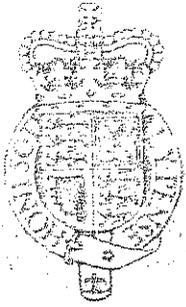
14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

15. I dismiss the appeal.



INSPECTOR



Appeal Decision

Site visit made on 05 January 2006

by Alan Upward BA(Hons) MCD MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
411 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PH
☎ 0117 372 6372
e-mail enquiries@planning-
inspectorate.gsi.gov.uk

Date

20 JAN 2006

Appeal Ref: APP/F1040/C/05/2003474

1 Slade Farm, Rose Lane, Ticknall, Derbyshire DE73 1JW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Adam Crane against an enforcement notice issued by South Derbyshire District Council.
- The Council's reference is E2003/516.
- The notice was issued on 20 July 2005.
- The breach of planning control as alleged in the notice is the unauthorised installation of a roof light in the western roof slope of the dwelling, which is affected by the Ticknall Article 4 Direction. The approximate location of the unauthorised roof light is indicated in green on the attached plan.
- The requirements of the notice are:
 1. The removal of the southernmost rooflight.
 2. The installation of a no larger than 560mm x 980 Conservation Escape/Access Rooflight with central glazing bar set flush with the roof covering, details of which must first have been submitted to and approved in writing by the Council, in the void resulting from carrying out Step 1.
 3. The infilling of any gaps between the roof and the replacement rooflight with Staffordshire blue tiles to match those on the existing roof.
 4. The removal from the land of any timber and other building materials resulting from carrying out Steps 1 to 3.
- The period for compliance with the requirements is 168 days.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variation.

Ground (a) appeal and the deemed application

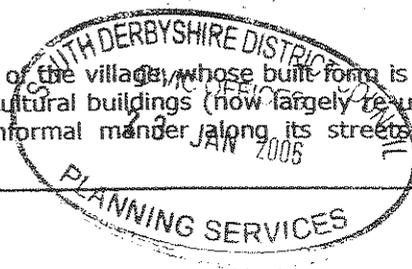
1. The site falls within the Ticknall Conservation Area, and the duty under S72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area applies to the determination of this appeal. This duty is reflected in the overall terms of Structure Plan Environment Policy 9, and in Environment Policy 12 of the South Derbyshire Local Plan (1998) for development in Conservation Areas. The appeal site is included within the list of properties affected by the Ticknall Article 4 Direction, which removes rights of permitted development at dwelling houses.
2. The development challenged by the notice is one of 2 roof windows in the outwards facing roof slope of a residentially converted barn within a group of such units at Slade Farm. It was said by the Appellant to be a Velux GHL window rather than the Velux GVT 154 which had been specified in a planning permission granted by the Council. The other roof window in the same roof plane is rather smaller, but said also to be a Velux GHL type.

The main issue is

- the effect of the development on the character and appearance of the Conservation Area.

Appraisal

3. The Conservation Area encompasses an extensive area of the village, whose built form is largely a product of relatively small scale residential and agricultural buildings (now largely re-used for other purposes including dwellings) laid out in an informal manner along its streets. Older



domestic buildings employ vernacular forms, design details and traditional materials with relatively little evidence of more modern adaptations. The purpose of the Article 4 Direction is to protect the historic local environment from the cumulative impact of individually small changes which might otherwise be permitted development. Largely unbroken roof slopes covered with plain tiles are a very strong element in the local scene. Roof windows may be seen at various points, but these are generally small in size and of traditional style and installation.

4. Whether the roof window subject to the notice harms the area requires consideration of its impact individually, its visibility in the local scene and the extent to which such features might now be said to be established features of the Conservation Area.
5. The addition of roof windows interrupts the simplicity of unbroken roof slopes in an area where these are important and attractive features contributing to established character. The guidance contained in *Historic South Derbyshire: Design Advice* as Supplementary Planning Guidance seeks to minimise the impact of such features in converted agricultural buildings by specifying that their size be kept to a minimum, that they be kept to concealed or unobtrusive roof slopes, and that they be flush fitted.
6. As I saw the unauthorised development, it is a relatively large roof window of a single glazed pane and fitted 'proud' of the tiled roof slope. In these respects its impact is visually discordant to the converted barn and its historic setting. As to the degree to which it might be seen from public vantage points, the wing added to number 1 by a recent extension reduces its visibility from the 'pedestrian' section of Rose Lane and the building is set back from Rose Lane to the west behind an intervening private garden. It is, nevertheless, seen clearly from the footway immediately to its north-west and over a similar arc across the yard leading to the churchyard. The ivy topped hedge lining the private garden boundary reduces visibility, but it is still fairly clearly seen along this section of Rose Lane, particularly from its footway. Comparison was made with the Council's decision to accept the other roof window in number 1. Although this may also be seen from Rose Lane to the west, it is less visible in the overall scene and smaller than the window challenged by the notice.
7. The incongruity of the unauthorised window is not diminished by the extent to which such features have now become an established part of the Area's character. I was able to see others, most notably in the nearby property immediately to the west. From what I saw at my visit, they are, however, relatively few in number.
8. My conclusion is that the unauthorised development has materially harmed the character and appearance of the Conservation Area in conflict with the development plan policies and inconsistent with the statutory duty for Conservation Areas. Measures proposed by the Appellant to paint the frame of the window and to install a glazing bar within it would not be sufficient to overturn this conclusion. The greater thermal efficiency of the Velux GHL window by comparison with the type previously permitted is not a factor of sufficient force to out-weigh Conservation Area objectives, particularly as more suitable sizes and designs are available to meet the needs for day-lighting of the roofspace.
9. The ground (a) appeal therefore fails, and the deemed application will be refused.

Requirements of the notice

10. Although the steps specified to remedy the breach of planning control are set out in detail, requirement (ii) also includes a clause specifying that "*details of which must first have been submitted to and approved in writing by the Council*". In *Kaur v SSE & Greenwich LBC EPL 2-3653* it was held that a requirement of an enforcement notice which provided for the subsequent submission and approval of a scheme introduced an unacceptable degree of uncertainty. In this case the works are already separately specified in a sufficient degree of detail without further addition to their terms in response to the "scheme to be agreed" clause, which would render the notice invalid. Although specific window manufacturer and installation details are not identified for a replacement, the requirement in (ii) specifies the maximum size of light, that it be a Conservation Escape/Access rooflight, that it have a central glazing bar, and that it be set flush with the roof surface. This is all that is required.

11. In the circumstances I consider that the notice can be validated by the deletion of the above quoted words in requirement (ii) without injustice to either party. In upholding the notice, I shall make this variation.

Formal Decision

12. I vary the enforcement notice at Schedule 3 by the deletion from lines 2 and 3 of item 2 of the words "*details of which must first have been submitted to and approved in writing by the Council*". Subject to this variation I dismiss the appeal, uphold the enforcement notice as so varied, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.


INSPECTOR

