

10/02/2004

Item 1.7**Reg. No.** 9 2003 1497 L**Applicant:**

The Melbourne Arms Ltd
 Ashby Road
 Melbourne
 Derby
 DE731ES

Agent:

Alf Plumb
 DPDS Consulting Group
 Gleneagles House, Vernon Gate
 Derby
 DE1 1UP

Proposal: The erection of a two storey extension to provide 11 new bedrooms to the rear of The Melbourne Arms Ashby Road Melbourne Derby

Ward: Melbourne

Valid Date: 15/12/2003

For report see Item 1.6

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 five years from the date of this consent.
1. Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
2. No work shall begin until precise details, specifications and samples of the facing materials to be used in the construction of the building have been submitted to and approved in writing by the Local Planning Authority.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. Large scale drawings to a minimum Scale of 1:10 of eaves and verges and 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 eaves and verges and external joinery shall be constructed in accordance with the approved drawings.
3. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
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".

4. Reason: In the interests of the appearance of the building(s).
5. A sample panel of pointing 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing.
5. Reason: In the interests of the appearance of the building(s) and the locality generally.
6. 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.
6. Reason: In the interests of the appearance of the building(s) and the character of the area.
7. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
7. Reason: In the interests of the appearance of the building(s) and the character of the area.
8. Notwithstanding the submitted drawings 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.
8. Reason: In the interests of the appearance of the building(s), and the character of the area.

10/02/2004

Item 1.8**Reg. No.** 9 2003 1510 F**Applicant:**

Peter Barton
 Windy Ridge
 Breach Lane
 Kings Newton
 Derby
 DE73 1DF

Agent:

Peter Barton
 Windy Ridge
 Breach Lane
 Kings Newton
 Derby
 DE73 1DF

Proposal: The erection of a new farm building and greenhouse together with relocation of mobile homes at Bridge Farm Barrow On Trent Derby

Ward: Aston

Valid Date: 18/12/2003

Site Description

The site is part of a former market garden/food packing enterprise, the northern part of which is now used for general storage, principally inside the former packing sheds. The applicant's ownership covers the southern half of the former Trent Valley Growers land and contains several growing tunnels, an office building, a small steel framed building and a greenhouse, along with office accommodation and an agricultural worker's dwelling. To the north of the site on the other half of the former TVG premises there is range of storage buildings (former packing sheds) and several caravans, occupied in the summer by farm workers. The site is on the corner of Swarkestone Road and Sinfin Lane, with frontages to both roads. The main access is from Sinfin Lane, but there is a farm access, used by tractors, onto Swarkestone Road.

Proposal

The proposal has three components, based on a new steel framed building measuring some 49 m x 20 m with a height of 8.5 m to the ridge. This would be erected close to the Sinfin Lane frontage on land currently occupied by an office building and a greenhouse. The greenhouse would be relocated to a position close to the boundary of the site with No 49 Swarkestone Road. As originally submitted the caravans would have been set out in a line close to the boundary hedge at the Swarkestone Road frontage, close to No 49. The applicant has amended this part of the proposal and the caravans would now be moved to one of the bases for growing tunnels, close to the new building, and a screen fence would be erected on three sides of the caravan site.

Applicant's Supporting Information

- a) At present two companies own the land at Bridge Farm. The applicant's company occupies land containing a packhouse/fridge, a portable office building, a greenhouse and polytunnels, used for plant raising. The floor area of the packhouse/fridge is about 420 sq m.
- b) The company started in 2000 with a production of about 50000 boxes of salads, vegetables and potatoes per year. This has increased to about 300000 boxes, which has stretched the facility beyond its capability in respect food standards etc.
- c) The applicant's business is concentrated totally on salad production for supermarket and the processing industry.
- d) It is proposed to move the packing area, cooling system and office into a purpose built unit, to meet 21st century standards. The area for the new building is already hard surfaced.
- e) The greenhouse on the site of the new building would be moved to the plant raising area in the SE corner of the farm.
- f) The mobile homes would be relocated from that part of Bridge Farm no longer under the applicant's control. These are used by seasonal workers from Eastern Europe, between April and November. In the summer these workers represent around 60% of the company's workforce, which is average for this kind of business in the UK. They are all university students who have been welcomed in the local community.
- g) A letter has been supplied from the owner of the adjacent land confirming that the mobile homes will be removed from their existing position and the planning consent therefore relinquished.

Site History

Various permissions were granted for greenhouses, polytunnels and packing buildings in the past. The main group of buildings is no longer in the applicant's control. Permission for the mobile homes was granted subject to a condition that they should be removed, when no longer needed to house seasonal workers on the holding (9/1296/0691/F).

Responses to Consultations

The Parish Council raises the following objections:

- a) The proposed building would be huge and have a significant detrimental effect on the village scene.
- b) Increased use of the access onto the old Swarkestone Road could be dangerous.
- c) HGV usage could increase and this will bring highway dangers and increased noise levels, especially from refrigeration units.
- d) There is concern over the use of the land to the north of the site.
- e) The shift is towards industrial usage; processing and packing rather than agricultural.
- f) The caravans are unsightly and would be very visible at the entrance to the village. There would also be noise problems to nearby residents and travellers could be encouraged to use the nearby lay-by. (Comment: This objection was received prior to the submission of the amended plan).
- g) The provision of services to the caravans is not made clear.

- h) More time should be given for villagers to comment as the application affects the whole village.

The Highway Authority, the Environment Agency and Environmental Health Manager have no objection in principle.

Responses to Publicity

Letters have been received from 6 local households, objecting as follows:

- a) The proposed farm building would be far too large for its setting to the detriment of the character of the village.
- b) Bridge Farm should not be split in two. The existing buildings on the northern half of the site should be utilised for the packing business.
- c) The building would be used predominantly for the packing of imported foods and is therefore industrial rather than agricultural in character, contrary to the development plan.
- d) The caravans would be visually intrusive.
- e) There is a local site at Hill Farm that could accommodate the caravans.
- f) There would be noise disturbance to local residents from the occupants of the caravans.
- g) There would be no community benefit in terms of local employment.
- h) The site has poor vehicular access. Existing problems to local residents caused by HGVs would become worse.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4.

Local Plan: Environment Policies 1 & 5.

Emerging Local Plan: Policies ENV3, 7 & 21.

Planning Considerations

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

- The principle.
- Visual impact.
- Residential amenity.
- Highway safety.

Planning Assessment

Fundamentally the new building would be an expansion of the existing business, based on agriculture. The applicant company is an agricultural enterprise in its own right and the packing facility would enable it to add value to the farm produce. The facility would also be capable of processing food imported from non-local sources, which is to be expected given the high investment required for a building of this kind. PPG7 acknowledges that, increasingly, diversification into non-agricultural activities is vital to the continuing viability of many farm businesses. The guidance states that farm-based fruit and vegetable packing operations, including those packing the produce of other farms, can help bring necessary economic

diversification and assist farmers in competing effectively at home and abroad. The Government attaches great importance to encouraging new sources of jobs and services in rural areas, and maintaining a strong agricultural and horticultural industry. Development that is necessary to sustain the economic activity should be properly integrated with protection of the rural environment. Clearly there is a qualitative factor in the relevant policies but the proposal is capable of being acceptable in principle.

As the mobile homes would continue to be occupied by seasonal workers employed at the site and in local fields, these are necessary to the business and this location. Therefore they are justified as a matter of principle.

Whilst the proposed new building would be a significant addition to the local landscape it would be within a group containing other similar looking buildings, various ancillary structures and polytunnels/greenhouse. Existing portable structures would be removed. In this landscape context the character of the area would not be adversely affected and the siting of a new building close to other buildings is encouraged by policy. The mobile homes would be relocated from the site to the north. The proposed amended siting is a more compact layout and would be well screened, such that the caravans would have a lesser impact on the landscape than at present. The nearby site at Hill Farm is a touring caravan site and is not suitable or authorised for the siting of mobile homes. The relocated greenhouse would be set at the edge of the complex of polytunnels and its impact would be limited.

The proposed operation is similar to the one carried on for many years at Bridge Farm in the buildings to the north of the application site (now used for general storage). The focus of activity is also in the same general area. The impact on neighbours is therefore not expected to be significantly different to that experienced in the past. The caravans would be far enough away from any residential property so as to cause no demonstrable harm.

Subject to appropriate conditions relating to parking and manoeuvring areas and to prevent HGV usage of the agricultural access the development would not be harmful 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. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawings received 14 January 2004, showing revised siting of the mobile home site.
2. Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. The mobile homes hereby permitted shall be occupied by seasonal agricultural workers employed by the applicant company to farm its land and/or work in the packing building, between April and November. No mobile home shall be occupied between December and March inclusive.
3. Reason: The Local Planning Authority is only prepared to grant permission on the basis of the specific agricultural needs set out in the application and your accompanying letter received 19 December 2003, and wishes to ensure satisfactory restoration of the site in the event of the mobile homes being no longer needed for that purpose.
4. Any or all of the mobile homes shall be removed from the land as soon as reasonably practicable after it or they are no longer required for the purposes stated in the application, and the land shall be restored to its existing level before the development to place, all service pipes shall be removed and the site covered with topsoil.
4. Reason: The Local Planning Authority is only prepared to grant permission on the basis of the specific agricultural needs set out in the application and your accompanying letter received 19 December 2003, and wishes to ensure satisfactory restoration of the site in the event of the mobile homes being no longer needed for that purpose.
5. The fence bounding the site of the mobile homes shall be erected in accordance with details and specifications that shall have previously been submitted to and approved in writing by the Local Planning Authority before any of them are first occupied.
5. Reason: In the interests of the appearance of the area.
6. 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.
6. Reason: To safeguard the appearance of the existing building and the locality generally.
7. The development shall not be brought into use until the access from Sinfin Lane has been widened and an area for the circulation and parking of vehicles has been provided, all in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.
7. Reason: In the interests of highway safety.
8. The development shall not be brought into use until measures for preventing the use of the access marked 'E' on the submitted plan have been implemented in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be retained thereafter.
8. Reason: In the interests of highway safety.
9. No mobile homes shall be brought onto the site until such time as the mobile homes on the site marked 'A' on the submitted plan have been removed from that site.
9. Reason: To ensure that the total number of mobile homes on and adjacent to the application site is commensurate with the labour requirements of the holding.

10. Any facilities for the storage of chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.
10. Reason: In the interests of pollution control.

10/02/2004

Item 1.9**Reg. No.** 9 2004 0001 F**Applicant:**

Lawnswood Consortium
 C/O 28 Lawn Avenue
 Etwall
 Derby
 DE65 6JB

Agent:

P. Billham
 Mr. P. Billham
 Planning & Design
 Old School Lodge
 Aston On Trent
 Derbyshire
 DE72 2AF

Proposal: Substitution of house types on plots four and seven at Land
 To The East Of Lawn Avenue Etwall Derby

Ward: Etwall

Valid Date: 05/01/2004

The application has been brought to Committee, as one of the consortium members is a Councillor.

Site Description

The site comprises an area with permission for the erection of 7 dwellings. It has houses to the east and fields to the west. Access would be from Burnaston Lane.

Proposal

The change in the house types are minor and involve the increase in size of plot 7 and a slight reduction in the footprint of plot 4 but an increase height and mass of the roof.

Applicants' supporting information

None

Planning History

Outline planning permission was granted in 2001. Reserved matters were submitted in 2003 for the erection of 6 dwellings with a further individual dwelling within the outline site submitted later in the year. Both applications were approved.

Responses to Consultations

These will be reported at the meeting, as there was insufficient time to collate responses when this report was prepared unless set out below.

The County Highways Authority has no objection subject to the same conditions and informatives being imposed on any new approval.

Responses to Publicity

Responses will be reported at the meeting.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5

Emerging Local Plan: Policies ENV 21 H1

Planning Considerations

The main issues central to the determination of this application is the suitability of the house types in substitution for those already permitted.

Planning Assessment

It is understood that the application arises from the need to provide a larger turning area to meet the needs of the fire service. The changes are minor in extent and would not adversely affect the amenities of existing and future occupiers. The increase in height of plot 4 may slightly increase the appearance of the roofscape when approaching from the east along Burnaston Lane but not to a point where permission should be refused.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. The scheme shall make provision for tree planting along the east boundary of the site in the form of an avenue of native tree species.
3. Reason: In the interests of the appearance of the area.

4. 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.
4. Reason: In the interests of the appearance of the area.
5. No work shall take place on the site until details of a scheme for the disposal of surface 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 that have been agreed before the development is first brought into use. The submitted scheme shall make provision to prevent the surface water spilling onto Burnaston Lane from any of the proposed access points. The approved scheme shall be implemented before the first occupation of any of the dwellings served by the accesses.
5. Reason: In the interests of flood protection.
6. 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.
6. Reason: To ensure that adequate parking/garaging provision is available.

10/02/2004

Item 2.1**Reg. No.** 9 2003 0319 R**Applicant:**

Steven Frixou
 Apollo Recruitment
 17 St James Street
 Derby
 DE1 1RF

Agent:

Steven Frixon
 Apollo Recruitment
 17 St James Street
 Derby
 DE1 1RF

Proposal: The variation of condition 5 of 9/0589/0271 to permit shooting for four hours on alternative Sundays at Lowes Shooting Ground Lowes Lane Swarkestone Derby

Ward: Aston

Valid Date: 12/03/2003

Site Description

Lowes Lane Shooting Ground is situated about 300 m to the north of the A50. The built up edge of Chellaston is about 1 km to the east and Sinfin some 1.5 km to the north west. A complex of dwellings at Lowes farm is about 0.6 km away to the south of the A50. Swarkestone village is about 1.3 km distant and Barrow on Trent 1.6 km. The Hill Lodge, Moor Lane is some 0.9 km to the south west.

Proposal

The proposal would allow Sunday shooting as set out in the applicant's supporting information.

Applicants' supporting information

This comprises three separate statements, from the applicant, a noise consultant and a planning consultant.

The applicant's personal submission is summarised as follows:

- a) The previous owner operated using noisy cartridges and failed to keep to the permitted hours of shooting.
- b) In the interim the A50 has been built and earth banks have been constructed around the shooting ground for noise attenuation.
- c) When Sunday shooting was granted on a temporary basis the previous owner failed to keep to the permitted hours.
- d) The former owner ceased his business in 2000.
- e) The A50 is now open and carries around 35000 vehicles daily, with high levels maintained on Sundays.

- f) Whilst not in use for shooting the site has been used by motor cycle scramblers, which are noisier than guns, but generated no complaints.
- g) The applicant has endeavoured to liaise with the local community and wishes to work with his neighbours.
- h) The applicant would be prepared to accept a 12-month temporary permission. If a permanent permission were granted the applicant would be willing for this to be subject to a legal agreement to stop Sunday shooting, if the correct conditions for running the grounds were not adhered to.

The noise consultants' report concludes as follows:

- a) Noise measurements were carried out at three properties and the recorded levels fell within accepted noise guidelines. Under some meteorological conditions there may be increased noise levels but these would still fall within the recommended range to prevent annoyance.
- b) The purpose of the survey was to measure and objectively evaluate noise levels from shooting on a Sunday. The measured and predicted levels have been compared with independent research findings in the Clay Target Shooting Guidance. This would suggest that annoyance is less likely to occur at mean shooting levels below 55dB(A). This represents the noise criteria at most of the properties considered except in meteorologically adverse conditions. The main exception is Lowes Farm, which under adverse shooting conditions may be subjected to mean shooting levels of up to 60 dB. However no complaints have been received from Lowes Farm. To demonstrate compliance with any noise limits that may be applied it may be necessary to carry out routine noise measurements at properties.
- c) To take account of days when wind or other meteorological effects may significantly increase noise levels at property, these conditions could be measured prior to commencement of a shoot and it may prudent to cancel or postpone a shoot.
- d) There is no evidence to suggest that shooting on a Sunday would generate noise levels that would be considered annoying.

The conclusions of the Planning Consultant's report are as follows:

- a) Lowes Lane Shooting Ground is located away from any immediately adjacent residential properties. It has had planning permission to open as a shooting ground between the hours of 9.00 am and 8.00 pm Monday to Saturday since 1989. This proposal seeks to reduce these.
- b) PPG24 (Planning and Noise) sets out noise mitigation measures and these have already been undertaken. It also stresses that some noise is acceptable and there must be a balance between the enjoyment of the participants and nuisance to other people.
- c) The Structure Plan promotes sport and recreation throughout Derbyshire. Similarly the adopted and emerging local plans also support this view within South Derbyshire. The emerging local plan also deals specifically with noise and allows developments that might generate noise if mitigation measures are put in place.
- d) There is a wide range of mitigation measures in place. There are earth banks, rifles and older cartridges are banned, CCTV has been installed to monitor the use of the ground and recorded tapes are available for anyone to view, and a security guard has been employed to prevent any out of hours shooting.
- e) The Noise Survey by Testing and Analysis Limited was recently undertaken and takes on board the guidance published by the Chartered Institute of Environmental Health ('Clay Target Shooting: Guidance on the Control of Noise'). The survey concluded that

shooting on alternative Sundays will not generate noise levels that would be considered annoying.

- f) It is evident that the applicant has suffered from the way the site was operated in the past before his control of the site. He has undertaken a number of key measures to mitigate any noise and has informed the local residents of his intentions, including holding a public meeting at Barrow Parish Hall, as well as talking to local councillors. The applicant has also visited the majority of the property owners at Lowes Farm, who are nearest to the shooting ground, and most did not know of the ground's existence. The noise survey has concluded the level of noise is acceptable and planning guidance and policy entirely supports the application.
- g) Separation distances set out in the CIEH guidance apply to open land, whereas the site is surrounded by noise reducing embankments.

In response to the Environmental Health Manager's observations the applicant's planning consultant adds further comments as follows:

- a) The application was submitted taking into account the latest guidance on noise regarding clay pigeon shooting.
- b) Section 4 of the CIEH guidance is especially relevant. This states that topographical features can offer substantial protection against noise. The site benefits from such topographical features and substantial noise attenuation measures have been put in place.
- c) The applicant is willing to enhance noise attenuation measures and would enter into a legal agreement to implement these.
- d) Deviation from the Code's recommendations should be able to be readily defended.
- e) The contention that properties to the side of the shoot were not considered in the noise consultants report is not factually correct. Properties at Hill Cottage Lowes Farm and Chellaston were monitored. It is quite clear that noise levels in the direction of shooting are much greater than noise levels to the side.
- f) In concluding that the proposal would not generate annoying noise levels, Hill Cottage was specifically mentioned. However the applicant has become aware that that shooting takes place near to that property on the basis of permitted development. The resultant noise is nothing to do with the subject site. (See Responses to Publicity)
- g) It is not agreed that separation distances are the only factor to have a significant effect on noise reduction. The incidence of earth banks and topography attenuates noise.
- h) The applicant has not received direct complaints and has not been advised of any. He has therefore not had the opportunity to investigate the source of noise that has led to complaints. If a resident felt that on any day the shoot was excessive then readings would be taken. If on this objective basis any complaints were justified because of unusual atmospheric conditions the ground would be closed for the relevant day. The applicant is willing to enter in to a Section 106 Agreement to provide control in this regard.
- i) Complaints should be analysed to establish whether the source of noise is generated by casual shooting on nearby fields, not under the control of the applicant. It is also significant that the Council has not received complaints from the occupiers of residences at Lowes Farm (see Responses to Publicity).
- j) Future complaints cannot be a valid material consideration. There may be none.
- k) In addition to earth banks, planting and the A50 the applicant bans rifles and loud older cartridges. A guard is employed to prevent out of hours usage and travellers have been dealt with by the applicant. The applicant is prepared to fund traffic calming in Lowes Lane.

- l) The application does not simply request Sunday shooting – it asks for an amendment to overall shooting hours that would result in a 33% reduction or 21.5 hours reduction per week.
- m) The applicant would be willing to accept seasonal usage, with reduced usage in the spring and summer when people wish to be in their gardens.
- n) A site inspection should be undertaken to assist in determining the application.
- o) There is no objective basis for refusing permission.

Planning History

Permission to use the land for shooting was granted in 1989, subject to the hours of operation as stated by the applicant's planning consultant. In 1993 permission was granted for a temporary period (12 months) to enable Sunday shooting to be undertaken on a trial basis. A subsequent application to continue Sunday shooting was refused in 1995 on the grounds that there had been substantial objection in respect of noise.

Responses to Consultations

Barrow on Trent Parish Council objects for the following reasons:

- a) The noise from the site is very intrusive and Sunday is a day when people like to rest and spend time in their gardens. They welcome peace and quiet.
- b) This has been raised before and there was strong opposition from residents of the parish.
- c) Notice of the public meeting held by the applicant was posted through the doors of some residents on Twyford Road the previous day. The remainder of the village was not informed.
- d) No notices were placed around the village or in the Parish Magazine.
- e) There is concern that non-attendance of the meeting implies acceptance of the proposal. The Parish Council remains opposed to shooting.

Derby City Council objects on the following grounds:

- a) Although properties in the City boundary are more distant from the shooting ground, they are in the approximate direction of shooting and are therefore more likely to be affected by noise, particularly in unfavourable weather conditions.
- b) The masking effect of noise from the A50 is likely to be at its lowest level on Sundays, and there is a history of complaints following previous Sunday shoots.

The Environmental Health Manager has provided a detailed appraisal in respect of the noise issue, the conclusions of which are as follows:

- a) Whilst the noise from present operations has not been found to constitute a statutory nuisance, the shoot noise is frequently audible and under certain weather conditions and is sufficiently intrusive to represent a loss of amenity.
- b) Research work by the British Research Establishment, as discussed in the guidance, found that 'for a given exposure level, community annoyance was found to vary significantly between shoots, but no particular shoot characteristics or socio-demographic variables were seen to be associated with the degree of annoyance'. The causes of variation in sensitivities in differing areas is not clear, therefore it is difficult to impose specific noise levels and parameters. Ultimately, it is likely that the only factor to have a reliable, significant effect on noise reduction is that of separation distances. There are

properties within the vicinity of the shoot that are less than the recommended separation distances as set out in the CIEH guidance.

- c) Complaints received by the division have generally been in relation to disturbance experienced during Saturdays and weekday evenings when complainants are at home. The division continues to receive complaints despite change in the management and operation of the site. To extend the operation of the shoot into Sunday's leisure time would inevitably lead to complaints and further reduce the residents' acceptance of an already unpopular venue.

The Highway Authority has no comment.

Responses to Publicity

10 letters have been received from individual householders. In addition objections have been received from Chellaston Residents Association along with a letter signed by six householders within the Lowes Farm complex. The settlements from where the letters originate are Swarkestone, Barrow, Sinfin and Chellaston. The objections are summarised as follows:

- a) Noise from the A50 is significantly less on Sundays because there are few HGVs, which are the dominant source of noise in the road.
- b) The applicant's interpretation of the CIEH guidelines is selective and indicates that dwellings not in the direction of shooting, or behind it, can be ignored. There are several properties too close to the shoot that will experience noise.
- c) Had the guidelines been in existence at the time of the original application for the shooting ground there is no doubt that permission would have been refused. That decision has to be put up with but there is no justification in compounding the problem by shooting on Sundays, when residents should be guaranteed peace and quiet.
- d) Whilst the applicant's efforts to address local concerns are acknowledged there is little that can be done, in view of the separation distances, to eliminate the nuisance caused.
- e) Whilst the applicant offers to reduce the hours of shooting the site does not always operate in the week and the Sunday shooting would actually increase overall noise. The noise report does not reflect the actuality of the situation in this regard.
- f) There is no need for a trial period as there is already experience of the noise from the site.
- g) There would be no real value to the community.
- h) There are many other venues and ad-hoc Sunday shoots operating in the area.
- i) The noise would exacerbate disturbance from other noise generating activity in the area.
- j) Noise from the shoot can be heard indoors (at Woodshop Lane Swarkestone) with windows and doors closed.
- k) Noise bunds have failed to reduce noise.
- l) In respect of noise levels the frequency and duration of shooting is disturbing.
- m) Variable climatic conditions result in exacerbated noise levels in certain localities.
- n) There would be an unacceptable increase in traffic on unsuitable roads.
- o) Future development in the Derby area would be adversely affected by noise.
- p) The incidence of shooting near Hill Cottage (see point f) of the planning consultant's latest comments above) is noted by the occupants who are concerned that this will be used to discredit their objections.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Leisure Policies 1 & 4.

Local Plan: Recreation and Tourism Policy 1.

Emerging Local Plan: Policy LRT3 and ENV15.

Planning Considerations

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

- The principle.
- Noise.
- Highway safety.

Planning Assessment

Whilst objectors debate whether the shooting ground would be permitted on the basis of today's policies and guidelines, the ground is established and therefore the locational policies of the development plan are not directly relevant to this proposal. However the adopted and emerging local plans contain a qualitative criterion based on the potential for disturbance to local amenity caused by noise. For the reason set out below the proposal offends this part of the development plan.

The issue of noise has been extensively examined by consultants employed by the applicant and the Environmental Health Manager. Based on the considerations of the latter the proposal is likely to cause unacceptable disturbance to local residents, on the day when they have the highest expectation for quiet enjoyment. The Environmental Health Manager's comments have been based on officers' assessments of objective data in conjunction with empirical observation and experience of the site.

On the advice of the Highway Authority there would be no adverse impact on safety

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

Recommendation

REFUSE permission for the following reason:

1. Because of the site's position relative to residential property around it, noise generated by Sunday shooting would lead to unacceptable disturbance to the occupiers of residential property and also to those involved in passive countryside recreational activities. As such the proposal is also in conflict with Recreation and Tourism Policy 1 of the adopted South Derbyshire Local Plan and Environment Policy 15 of the emerging South Derbyshire Local Plan.

10/02/2004

Item 2.2**Reg. No.** 9 2003 0981 FH**Applicant:**

Mr Mrs M Johnston
2, Barrons Court
Elvaston
Derby
DE723ER

Agent:

G. Markwell
Graham Markwell Associates
1B Derby Road
Borrowash
Derbyshire
DE72 3JW

Proposal: The erection of a second storey extension at 2 Barrons Court
Elvaston Derby**Ward:** Aston**Valid Date:** 11/08/2003**Site Description**

The property is a modern detached house occupying part of a redeveloped farmyard. The original Vicarage Farmhouse is next door, at right angles to Main Road. Its rear (south) elevation contains 3 habitable room windows (recently enlarged to form French doors) facing the application site. There is also a utility room window in this elevation. The two-storey part of No2 Barrons Court is about 9 m from the rear windows in Vicarage Farmhouse. There are two mature evergreen trees at the site boundary, within the grounds of Vicarage Farmhouse. Elvaston is situated in the South East Derbyshire Green Belt.

Proposal

The proposal involves extending over an existing single storey extension to enlarge a bedroom. The extension would measure about 2.7 m x 4 m in plan. It would be some 7m from the nearest habitable room window in the rear elevation of Vicarage Farmhouse. A French window, at first floor level, is proposed in the west flank of the extension.

Site History

Permission for the dwelling was granted in 1996, being part of a scheme to redevelop the old farmyard/HGV repair workshop at Vicarage Farm. The single storey extension was permitted in 1999 and conversion of the integral garage to living accommodation, along with a detached garage, in 2001. A garage extension was permitted in 2003.

Responses to Consultations

No comments have been received.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 7.

Local Plan: Green Belt Policy 3 and Housing Policy 13.

Emerging Local Plan: ENV6 & 21

Planning Considerations

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

- The principle of development, in particular with regard to impact on the openness of the green belt.
- Impact on the general character of the area.
- Residential amenity.

Planning Assessment

As the proposal is a small-scale extension to an existing dwelling, within the built up part of the village there would be no demonstrable impact on the openness of the green belt. The development is thus acceptable as a matter of principle.

The extension is small scale and its design is sympathetic to the host dwelling. There would thus be no adverse effect on the general character of the area.

There are several habitable room windows in the side of Vicarage Farmhouse. Supplementary planning guidance would normally seek a distance of 12 m between a main window and a 2-storey extension to avoid overbearing and loss of light. Whilst the existing evergreen trees filter views of the proposed extension, it remains the case that the proposal fails to meet the supplementary planning guidance. In addition the proposed French window would be likely to cause overlooking, particularly if one of the evergreen trees were to be removed.

Recommendation

REFUSE permission for the following reason:

The proposal falls short of the minimum distances set out in the Council's supplementary planning guidance on extensions. Therefore the extension would result in overbearing, overlooking and reduction of light to the occupiers of the adjacent dwelling at Vicarage Farm, contrary to the provisions of Housing Policy 13 of the adopted South Derbyshire Local Plan.

10/02/2004

Item 2.3
Reg. No. 9 2003 1435 F

Applicant:
 Mr R Thompson
 C/O Architectural Design Services

Agent:
 Architectural Design Services
 The Carthovel, Charnels Court
 Upperfields Farm
 Shepstone
 Leicestershire
 LE67 2SG

Proposal: The re-construction of the former blacksmith's cottage at The Gables Ingleby Stanton-by-bridge Derby

Ward: Repton

Valid Date: 25/11/2003

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

Site Description

The site is a field containing the remains of a building towards its northern boundary. The field slopes down from the highway.

Proposal

The application seeks to build a replica of the former blacksmith's cottage that once existed on the site. An old photograph has been submitted for information and the design of the new dwelling reflects the information in the photograph.

Site History

Four applications to develop the site with a single dwelling have been previously refused. The last was a proposed 'country house' (9/2002/1022/O).

Responses to Consultations

The Parish Meeting comments as follows:

- a) Five parishioners raised no objection. Some said the proposal would be in keeping with the hamlet and considerably better than the previous proposal for a country house.
- b) One resident said that the proposal may not accord with the structure plan and was not infilling. However so long as a precedent would not be set there was no objection.

The Highway Authority objects on the grounds that the development would lead to increased reliance on the private car. No highway safety issue is raised as such.

The Environment Agency requires a flood risk assessment as the site is in an area at risk of flooding from the River Trent.

Responses to Publicity

Two letters have been received commenting as follows:

- a) The design of the dwelling is sympathetic to its surroundings.
- b) There is concern that a precedent might be set for development contrary to the structure plan.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies, 1,3 & 4 and Housing Policy 6.

Local Plan: Environment Policy 1 and Housing Policy 8.

Emerging Local Plan: Policies ENV3, 7 & 21 and H1

Planning Considerations

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

- The principle.
- Impact on the character and appearance of the countryside.
- Highway safety.
- Flooding.

Planning Assessment

The legal position in respect of the former building on the site is clear. Once the building was demolished or destroyed the right to use the land for residential purposes was extinguished. Therefore for the purposes of assessing the proposal against the development plan this is an unjustified proposal for residential development in the countryside, in an area identified by the emerging local plan as unsustainable in the terms of PPG3. Therefore the proposal is clearly contrary to the locational policies of the development plan.

Notwithstanding the reference to a building that once existed, the character of the site has been open for a considerable period of time and this is the established position. The proposed dwelling would thus be an unwarranted intrusion into the open landscape.

The proposal would not result in a dangerous access but the Highway Authority objects on the grounds of sustainability because the proposal would lead to increased reliance on the private car.

In view of the clear conflict with the development plan the applicant has not been asked to enter into the expense of a flood risk assessment although this issue would need to be taken into account should members be minded to grant permission.

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

Recommendation

REFUSE permission for the following reasons:

1. The proposal conflicts with the approved Derby and Derbyshire Joint Structure Plan General Development Strategy Policies 3 & 4 and Housing Policy 6, the adopted South Derbyshire Local Plan Environment Policy 1 and Housing Policy 8 and the emerging South Derbyshire Local Plan Policy ENV7 which seek to permit residential development outside settlements only if it is necessary to the operation of a rural based activity. The development would result in a harmful intrusion into the countryside to the detriment of the rural character of the area, which is unwarranted in the absence of such a need.
2. Ingleby is not identified as a sustainable location for further residential development as it does not provide sufficient facilities to enable residents to live within the village without being reliant on the private car to travel significant distances for goods and services, or to take up employment. The proposal would therefore lead to additional housing in an unsustainable location contrary to Policy H1 of the emerging South Derbyshire Local Plan and General Development Strategy Policy 1 of the approved Derby and Derbyshire Joint Structure Plan.
3. The indicative floodplain map as provided by the Environment Agency shows the site within an area at risk of flooding from the River Trent. In the absence of a flood risk assessment, the development runs contrary to the advice in PPG 25.

10/02/2004

Item 2.4**Reg. No.** 9 2003 1450 F**Applicant:**

Colin Carruthers
72 Leicester Road
Measham
Swadlincote
Derbyshire
DE12 7JG

Agent:

Edwardson Associates
Sedge House
North Frodingham
Driffield
East Yorkshire
YO25 8LA

Proposal: The erection of an agricultural dwelling together with the installation of four fish breeding/growing ponds and breeding shed at Springwood Fisheries Ashby Road Melbourne Derby

Ward: Melbourne

Valid Date: 28/11/2003

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

Site Description

The site lies at the edge of the district, set against a backcloth of woodland in open countryside. Formerly a grassy field the site now contains two recreational fishing lakes and two timber amenity buildings for the use of anglers. The whole site amounts to some 1.74 hectares (4.3 acres). Despite landscaping, undertaken as part of the fishing lake development, the site is clearly visible from Ashby Road, which is set at a higher level.

Proposal

The applicant proposes a 4 bedroom detached house, four small breeding and growing ponds and a small building for the containment of fish breeding tanks. The development would be situated in the western corner of the triangular site. Low earth mounding is indicated around the dwelling.

Applicant's Supporting Information

The applicant has provided a detailed appraisal of need for the proposed dwelling, summarised as follows:

- a) The site was chosen for its purpose because of the quality natural spring water supply, the clay sub-soil, its topography, the backcloth of mature woodland, and good road access. These have allowed the site to be developed unobtrusively complementing the landscape and increasing biodiversity.
- b) The lakes have been open to the public since June 2001.

- c) Mrs Carruthers is the key worker on the site, with her employment requiring site presence both early in the morning and late evening, during daylight hours at present. Her husband and their three grown up daughters assist her.
- d) The family lives in Measham about 10 miles away. This presently involves about 4 car journeys per day, which is cumbersome.
- e) Additional journeys have been necessary to deal with concerns about security and especially to deal with freezing over of the lakes, which has previously caused the loss of over 200 valuable mature fish.
- f) The business has developed rapidly and there is now sufficient profit to pay a full time worker, with a modest surplus.
- g) The size of the lakes now restricts growth of the business. Therefore the applicant wishes to introduce more profitable night fishing and to develop a fish hatchery/breeding element to the business. The latter will be both to restock the applicants' lakes and to supply others.
- h) The applicants currently estimate that the business requires 1.75 full-time equivalent workers. This would be increased to 2.5 were the hatchery and breeding business to be developed. This would require 24-hour supervision.
- i) One of the applicants' daughters would then work full time at the site alongside Mrs Carruthers.
- j) The applicants have applied to the Caravan Club to become a Certified Location. This will allow them to site up to 5 touring caravans. The proposed dwelling would enable an appropriate level of service to be offered to Caravan Club Members.
- k) Without the night fishing and the caravan income the existing and proposed business would be financially viable, producing a profit commensurate with setting up the hatchery/breeding business and the proposed dwelling.
- l) 4-bedroom accommodation is necessary, as the applicants' three grown up daughters will continue to live with them.
- m) The proposed house would sit comfortably in the landscape and there would be no impact on the amenities of the nearby existing dwelling.
- n) The applicants' commitment to this appropriate rural diversification has won the support of the National Anglers Federation, which uses the site to train children in general fishing techniques and safety. This will be developed to training of coaches this year. There will be benefits to the local economy, as trainees will need to be accommodated in the area. The site is already well used by children from local fishing clubs, provides an important service to local people and a safe venue for children to experience fishing and rural life.
- o) The site has been laid out to facilitate fishing by disabled anglers and a lake is always available for casual fishing, including local use, even on match days.
- p) The appraisal demonstrates the need for a dwelling in the terms of PPG7's functional need and viability tests. There is no other suitable dwelling with a realistic prospect of becoming available in the foreseeable future.
- q) The development plan provides for development away from settlements, where necessary to the operation of a viable long term rural based activity. The hatching and breeding of fish needs to be adjacent to the existing enterprise and the dwelling is needed to properly manage and care for the business. The proposal represents an important diversification of the local economy.
- r) The new consultation draft of PPS7 urges local authorities to more positively support diversification and rural enterprise, acknowledging the benefits of such initiatives rather than just demerits.

Site History

Permission for the lakes was granted in 2000 (9/2000/1028/F). An application to retain the existing clubhouse and to erect a toilet block was granted in 2002 (9/2001/0968). Permission is for a limited period expiring on 31 May 2005. This condition was imposed because the materials used in the construction of the building makes them unsuitable for a permanent permission.

Responses to Consultations

Councillor Harrison, the local ward member, objects as follows:

- a) The site has already been transformed from a place of beauty to an offensive eyesore consequent upon the Springwood Fisheries development.
- b) The development would be an excessive intrusion into the countryside. Moreover the natural topography of the land does not lend itself to such artificial manipulation without incurring further unacceptable environmental damage.
- c) In the alternative, clear conditions must be imposed to minimise the environmental impact and thereafter strictly enforced.

The Parish Council objects as follows:

- a) The proposal is piecemeal incremental development and the issues should have been considered at the time of the original application.
- b) There is no need for the dwelling.
- c) If a dwelling is needed for the business it should be removed when the business ceases.
- d) The development is having an adverse effect on the environment, spoiling one of the most beautiful sites in the area.
- e) There would be increased risk of road accident.

The Highway Authority objects on safety grounds as previously required access improvements do not appear to have been completed.

East Midland Airport, in its role as safeguarding authority, recommends that netting be placed over the fishponds to prevent them being attractive to birds.

The Environmental Health Officer has no comment.

The Environment Agency has no objection in principle.

Structure/Local Plan Policies

The relevant policies are:

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

Local Plan: Environment Policy 1 and Housing Policy 8.

Emerging Local Plan: Policies ENV3, 7 & 21 and Policy H

Planning Considerations

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

- The principle.
- Impact on the countryside.
- Residential amenity.
- Highway safety.

Planning Assessment

The applicant contends that the breeding ponds and shed and the proposed dwelling are necessary to this particular location. Local policy makes it clear that dwellings are only acceptable if they are necessary to the operation of rural based activity. PPG7 sets out functional and financial tests to assist in determining applications specifically for agricultural and forestry dwellings, but with an unusual proposal such as this there is clear scope for the Local Planning Authority to consider the particular merits of the case.

Whilst the applicant makes reference to operational difficulties with the existing fishing lakes and proposed touring caravan site, these do not meet the functional tests of PPG7 and it is clear that the existing business can operate without someone living on site. Therefore the justification for the dwelling appears to rely on the formation of the breeding ponds and shed. The applicant argues that the breeding ponds are necessary to this location, adjacent to the existing recreational fishing lakes. However it remains the case that permission was only granted for the lakes in the first instance because they constituted a passive form of outdoor recreation with no unacceptably harmful impact on the character and appearance of the countryside. Had an adverse visual impact been identified that would have been sufficient to warrant refusal. It is clear that the business permitted can function without on site breeding facilities and the applicants have proved this to be the case.

The proposed breeding facilities are relatively small scale. The engineering and building operations (and therefore investment) required to form them would not be substantial. The cessation of this part of the business, in terms of such investment, would therefore be unlikely to damage the existing successful business. In such an instance the Local Planning Authority would find it very difficult to resist removal of an occupancy condition.

The breeding activity is not agriculture as it is proposed to supply the existing recreation facility and other similar operations. It requires only a very small area of land. Whilst the applicant would be able to make use of the natural water supply on the site it is probable that sites in built up areas, or on established farms, could fulfil this requirement. As such it is considered that neither the breeding facilities nor the dwelling are necessary to this particular location in the countryside. The correct approach would therefore be to apply a search sequence, which has not been done. Although the applicant cites the development as an example of rural diversification, PPG7 tends to refer to the diversification of existing farms, rather than the establishment of 'freestanding' new businesses on greenfield sites. To permit the current proposals would be to negate the environmental safeguarding criteria that were used to assess the impact and therefore the acceptability of the original application.

Whilst the visual impact of the small ponds would not be substantial, the proposed dwelling and to a lesser extent the fish breeding building, would be highly visible and a discordant feature in their rural, the impact of which would be exacerbated by the current design proposals. In view of the foregoing paragraphs this adverse impact would be unwarranted.

There would be no harm to any neighbours.

The matter of the existing access is for separate investigation. If the proposal were to be justified in policy terms there would be no grounds to resist the application on highway safety grounds, subject to conditional control.

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

Recommendation

REFUSE permission for the following reasons:

The proposed hatchery/breeding ponds and building, and the associated dwelling, are not necessary to the operation of an established long term viable rural based activity and a location in the countryside is not necessary. Therefore the impact of a dwelling and breeding building in this location, having regard to the bulk form and design of the particular dwelling proposed, would be an unwarranted and harmful intrusion into the rural landscape to the detriment of its character and appearance, thereby contrary to the following policies: Derby and Derbyshire Joint Structure Plan General Development Strategy Policy 4 and Housing Policy 6; South Derbyshire Local Plan Environment Policy 1 and Housing Policy 8; and Emerging South Derbyshire Local Plan Policies ENV3, 7 & 21.

18/11/2003

Item 1.5**Reg. No.** 9 2003 0965 F**Applicant:**

J A & A J Coxon
 Cromwell House Farm, Boggy Lane
 Church Broughton
 Derby
 DE65 5AR

Agent:

J A & A J Coxon
 Cromwell House Farm, Boggy Lane
 Church Broughton
 Derby
 DE65 5AR

Proposal: The formation of a silage clamp at Cromwell House Farm
 Boggy Lane Church Broughton Derby

Ward: North West

Valid Date: 18/08/2003

Site Description

The site comprises part of a field immediately to the north of the farm buildings. A hedge fronting Tippers Lane separates the site from the road. There is a post and wire fence to the east boundary closest to the houses.

Proposal

The proposal relates to the creation of silage clamp that would be constructed with clay walls some 3 metres high, 3 metres wide at the top and 7 metres wide at the base. Its front to the farmyard would be open its width would be 32 metres (35 Yards) and one side would be 45 metres long (50 yards) and the other 27.5 metres long (30 yards).

Applicants' supporting information

Since submission, the applicant has confirmed that the banks will be grassed and there would be no objection to a requirement for a hedge to be planted along the east boundary.

The applicant advises that the farm has an open slurry store and that material from an existing silage clamp has drained into the slurry store for the past thirty years. He confirms that he has sought the advice of the NFU for confirmation of the regulations regarding such.

Planning History

There have been numerous applications at the farm for buildings and other structures over the years but no applications on the land that is subject to this application.

Responses to Consultations

Church Broughton Parish Council has objected on the basis that:

- a) The proposed structure would have an adverse impact on the visual amenity of the area through its mass and the use of plastic sheeting and old tyres.
- b) There is also concern about the ability of the adjacent slurry pit to accommodate run off from the clamp and whether the increased size of the pit would result in odour or flies. The land adjacent to the slurry pit already floods and this proposal could make matters worse.
- c) The clamp is excessively close to the roadside hedge and there is concern that vehicles entering the highway may not be able to see properly.
- d) There must be a better location for the clamp within the farm complex.

The County Highways Authority has no objection subject to the measures being implemented to prevent the flow of surface water or the transfer of debris onto the highway.

The Environment Agency has no objection subject to there being no possibility of contaminated water entering and polluting surface or underground waters. The facility must also comply with relevant legislation and advice.

The Environmental Health Manager has concerns about the potential for the mixing of slurry and silage effluent creating smells. There is also concern that drainage facilities must be put in place in order to help to minimise smells from the site itself. The base and sides of the clamp should be professionally designed to meet the latest standards but the drawings suggest that this may not be the case. There are guidelines published that would ensure that the clamp is properly designed. If permitted a condition is necessary to ensure that there are drainage channels within the clamp and requiring that there is no storage of slurry in the clamp as the mixing of liquids can produce dangerous gasses. The gasses can become a problem if the store is enclosed, otherwise they dissipate to the air. It is also recommended that the attention of the applicant be drawn to the various advice leaflets available.

Responses to Publicity

8 letters have been received objecting to the proposal for the following reasons: -

- a) The size of the proposal is unbelievable and should not be allowed so close to dwellings. The structure would be an eyesore in a green belt area. There is plenty of other space within the farm holding where the clamp could be sited. These should be assessed before this location is accepted.
- b) The existing slurry pit/silage clamp causes land drainage problems and the farmer would be held responsible if his proposals make the situation worse. It is alleged that the pit/clamp obstructs a natural water course that subsequently causes the adjacent land to flood. If the natural course is affected it could affect the stability of an adjacent dwelling
- c) Children play close to the proposed site and their health could be at risk.
- d) There would be an increase in the odours from the site that are already strong and cause residents to have to keep their windows and doors closed. This is an environmental hazard that has not yet been seriously or adequately addressed.
- e) The views from the backs of the houses will be totally spoilt especially the views of the setting sun. It will cause unacceptable shadowing across garden and other land.

- f) The height of the material within the clamp will exceed that of the banks and then be topped by black plastic sheets covered in old tyres.
- g) The proposal will reduce the value of our house.
- h) If ultimately permitted following the investigation of alternative sites at the farm, the east boundary should be planted with hedge and trees, the material stored should not be allowed to extend above the height of the bunds. The bund walls should be seeded with an appropriate grass seed mix to reduce its visual impact.
- i) The drawings are not professionally prepared and are not good enough to enable the proposals to be properly assessed.
- j) A silage clamp would have an adverse impact on the character of Tippers Lane. The use of the lane by heavy farm vehicles has already caused damage and the increased use that would arise from this development would cause further damage.
- k) The siting of the silage clamps near to homes may in fact infringe human rights.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Environment Policy 1

Planning Considerations

The main issue is the impact of the proposal on the character and appearance of the area and the potential for control of smells from the site.

Planning Assessment

The nearest dwellings lie some 60 metres to the east of the site. The receiving open slurry store is in place and has received silage runoff for a considerable number of years. The Environmental Health Manager has confirmed concerns about smells from the proposal but states that the emissions could be minimised by the use of conditions. Such a condition is recommended below.

The visual appearance of the proposal is intended to be mitigated by the use of grass seeding and the planting of a hedge along the east boundary of the site. The use of an earth mound will be less intrusive than a more usual concrete wall provided that the requirements of the environmental protection legislation are met. The attention of the applicant would be drawn to these requirements should permission be granted. The seeding and planting could be a requirement of a planning condition.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
2. Reason: In the interests of the appearance of the area.
3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
3. Reason: In the interests of the appearance of the area.
4. Before development is commenced, precise details of the drainage system of the silage clamp hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall then be implemented in accordance with the approved details.
4. Reason: In the interests of preventing pollution of the water environment.

Informatives:

The facility must comply with the Control of Pollution (Silage Slurry and Agricultural Fuel Oil) Regulations 1991 (as amended). Silage liquor must be contained within a sealed system in accordance with the MAFF 'Code of Good Agricultural Practice for the Protection of Water'. You are advised to contact Mr G Harper Environment Protection Officer at the Environment Agency to discuss the specific requirements. (Tel: 01785 782555).

APPEAL DISMISSED

Appeal by Mr Singh

The erection of an extension to the South side of Singh Newsagents 194 Station Road Hatton Derby (9/2003/0627)

The application was refused permission for the following reason(s):

1. *The proposal would seriously affect the amenities of the occupiers of the adjoining property by restricting the passage of daylight and by unacceptably affecting their outlook contrary to Shopping Policy 3 of the adopted South Derbyshire Local Plan.*

The inspector considered the main issue to be:

1) The effect of the proposed development on the living conditions of occupiers of 192 Station Road, Hatton, with particular reference to sunlight/daylight and visual impact.

The inspector considered the relevance of Shopping Policy 3 of the adopted Local Plan permitting small shops which do not adversely affect the amenities of neighbouring properties.

The inspector noted the closeness to the boundary of the front entrance of 192 Station Road and the bay window located approximately 1m from the front door. She did not consider that either the entrance hall or the lounge would become "unduly dark or gloomy as a result of the appeal proposal."

However, the inspector considered that the height of the proposed extension and its proximity to 192 would result in a form of development that she regarded as having an overwhelming physical presence dominating the boundary between the two properties. This would be overbearing to persons entering and leaving 192 and would impact on the outlook from the front lounge bay window.

The inspector noted the appellants problems of the accumulation of rubbish within the proposal area and that it was an area where youths congregated but did not feel that the problems outweighed the adverse impact of the proposed development.

In conclusion the inspector considered that the proposal would "result in a visually intrusive form of development that would have a significant and detrimental impact on the living conditions of the occupiers of 192 Station Road", which would conflict with the relevant policy of the Local Plan.

In consideration of the above matters the appeal was dismissed.

APPEAL DISMISSED

Appeal by Mrs Harris

The pruning of a lime tree covered by South Derbyshire District Council Tree Preservation Order No 160 at 3 St James Court Swarkestone (9/2003/0370)

The application was refused permission for the following reason(s):

- 1. The tree, which is recovering from previous heavy pruning, makes a valuable positive contribution to the character and appearance of this part of the designated Swarkestone Conservation Area. Further pruning at this stage would cause material harm to the amenity value of the tree, which is unwarranted on the basis of available evidence.*

The inspector considered the tree to be of considerable amenity value and an important component of the local landscape. The uncontrolled reduction its crown would therefore have a considerable detrimental impact on its amenity value and a negative effect on the conservation area. He found the assertion that the tree was causing damage to the applicant's property to be unsubstantiated and felt that the risk of damage could be reduced by less severe pruning works as suggested by Council officers.