

07/03/2006

Item 2.1**Reg. No.** 9/2005/1439/L

Applicant:
Mr M Hill
Lowes Farm
Swarkestone
Derby
DE73 7JA

Agent:
J. Mellor
John Mellor Design
10 Castle Court
Elvaston
Thulston
Derby
DE72 3GZ

Proposal: **The installation of timber framed glazing to existing arch in east elevation and the erection of a small wrought iron screen to the west elevation of Lowes Farm Swarkestone Derby**

Ward: **Aston**

Valid Date: **07/12/2005**

The application is brought to Committee at the request of Councillor Atkin.

Site Description

The site is part of a complex of converted historic farm buildings, grouped around Lowes Farmhouse. The property is a Grade II listed building.

Proposal

The application seeks to provide two glazed screens at either end of an archway through the building. In addition a wrought iron fence is proposed to demarcate the boundary between the applicant's land and that of his neighbour.

Applicants' supporting information

- a) The glazed screen would provide a useful covered area and would complete the security to the entire farm. It would be well recessed and could be removed in the future without affecting the visual integrity of the original archway.
- b) The wrought iron fence would be of period style and would simply define the boundaries between Lowes House, The Stables and the Dovecote.

Planning History

Permission to convert the buildings was granted in 1995.



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

**9/2005/1439/L Lowes Farm
 Swarkestone
 Derby**

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Date Plotted 24/2/2006

NORTH ↑

Plot centred at 436761 328940 **Scale 1:7500**

Responses to Consultations

The Design and Conservation Officer objects for the reasons set out in the planning assessment below.

The Development Control Archaeologist has no objection.

Responses to Publicity

Two neighbours object as follows:

- a) The proposed glazed screens would be detrimental to the character of the property, and would facilitate occupation.
- b) An alternative security solution should be found.
- c) The fence would be out of keeping with the development.
- d) An escape route for the neighbouring property would be blocked.

Development Plan Policies

The relevant policies are:

RSS8: Policy 27

Joint Structure Plan: Environment Policy 10

Local Plan: Environment Policy 13

Planning Considerations

The main issue central to the determination of this application is the impact on the character and setting of the listed building.

Planning Assessment

The existing archway through the east elevation of the building is an important element of the agricultural character of the farm group. Whilst it is currently open there is some evidence that it had, on one side at least, large doors on pin hinges. Glazing the opening would unduly alter the character in a domestic manner and would weaken the visual separation of the 2 adjoining units.

The proposed subdivision of the separate residential units within the curtilage of this farm grouping using the metal railing would have a detrimental effect on its open character. Retaining the inner courtyard as a communal undivided space was an important part of the original conversion. The proposed creation of a separate curtilage would have the effect of dividing up the farmyard resulting in a domestic appearance, which would be out of character with its agricultural setting.

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 listed building consent for the following reason:

The proposal would result in alterations to the fabric and setting of an historic listed farm group. Glazing the opening as proposed would unduly alter the character of the former farm building in a domestic manner and would weaken the visual separation of the two adjoining units. Furthermore the division of the former farmyard with the proposed metal railing would have a detrimental effect on its open character, resulting in a domestic appearance, which would be out of character with its agricultural setting. As such the proposal is contrary to the following development plan policies: RSS8 Policy 27; Derby and Derbyshire Joint Structure Plan Environment Policy 10; and South Derbyshire Local Plan Environment Policy 13.

07/03/2006

Item 2.2**Reg. No.** 9/2005/1466/U**Applicant:**

M Cooper
Blade House
Grangewood
Netherseal
Swadlincote
Derbyshire
DE128BH

Agent:

C. Greehhalgh
Mr. C. Greenhalgh
46 Wellfield Road
Alrewas
Burton On Trent
Staffordshire

Proposal: The use as domestic garden of land at the rear of Blade House
Grangewood Netherseal Swadlincote

Ward: Seales

Valid Date: 14/12/2005

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

Proposal

This application relates to undeveloped land that is surrounded on three sides by fields. The site is rectangular in shape, measuring some 38m x 42m (1596 sq m in area) and appears to have been part of a larger field to the rear of Blade House. It is proposed to expand the garden of Blade House into the field and the effect of the current application would be to increase the overall size of the plot by approximately three times. In terms of expansion of the rear garden, the proposal would result in the current garden of some 390 sq m becoming almost 2000 sq m, approximately four times the size.

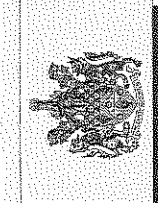
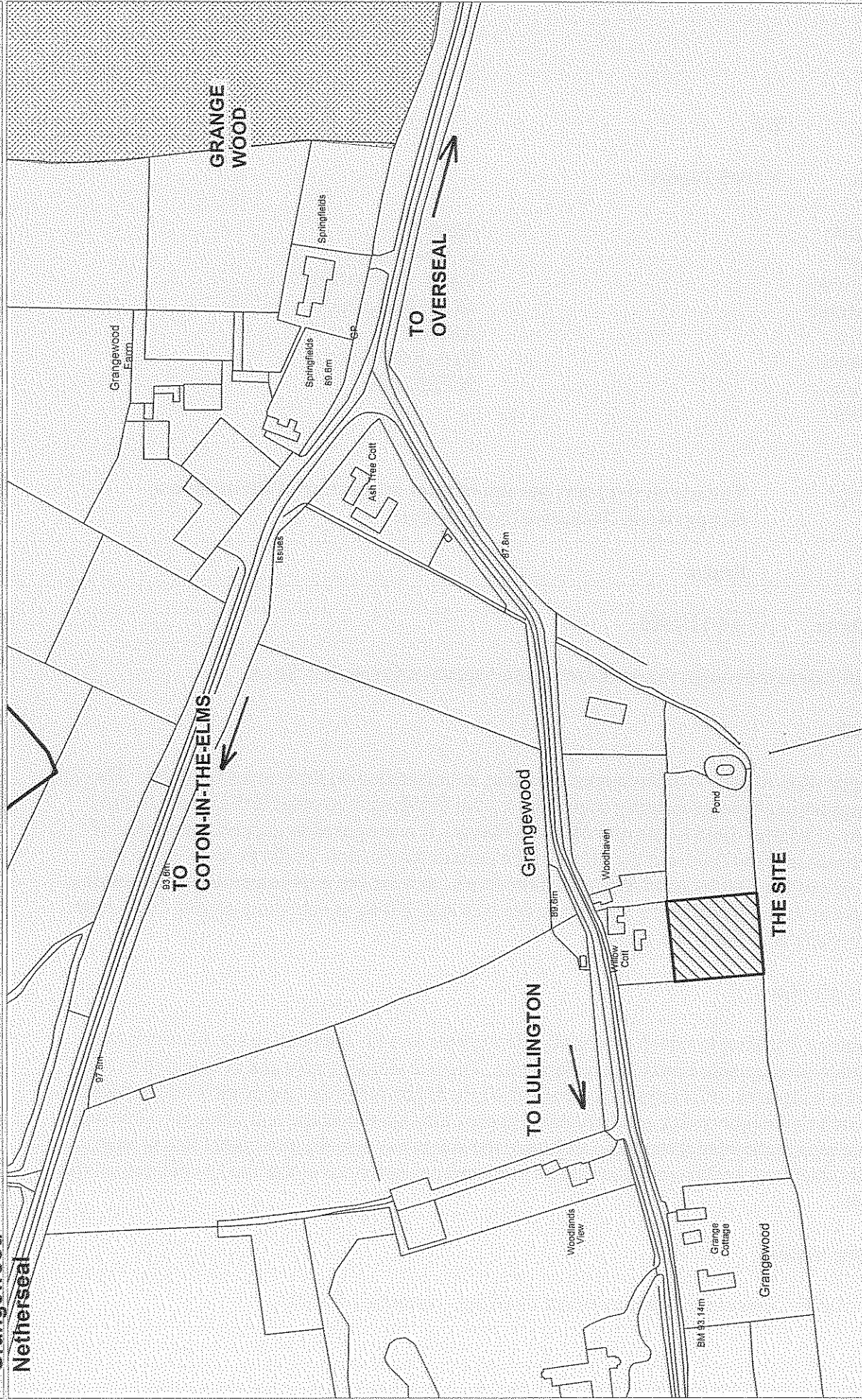
Site Description

The frontage dwelling to which this application relates and the application site lie within the countryside well outside limits to development. The site slopes gently and is bounded to the south by a hedgerow. It is largely screened from the highway by the applicant's house (Blade House) and the neighbouring property but glimpses through the hedge and other gateways are available during the winter months. Although the site is not visually prominent this is largely due to the fact it is well assimilated into its surroundings by virtue of the species planted on the perimeter.

Planning History

9/2003/500/F – Erection of a replacement dwelling – approved 19.6.03

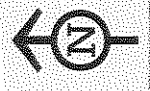
9/2005/1466/U Blade House
Grangewood
Netherseal



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

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Date Plotted 24/2/2006
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Responses to Consultations

Netherseal Parish Council has no objection subject to site being safeguarded from future development.

Responses to Publicity

There has been no response to publicity.

Development Plan Policies

The relevant policies are:

RSS8: N/A

Joint Structure Plan: Environment Policy 1

Local Plan: Environment Policy 1

Planning Considerations

The main issue central to the determination of this application is the protection of the countryside from unwarranted development.

Planning Assessment

Environment Policy 1 in both the Structure Plan and the Local Plan reflect national guidance in PPS7. PPS7 indicates that new development in the countryside should be strictly controlled and paragraph 15 states that planning authorities should continue to ensure that the quality and character of the countryside is protected.

Both local and national policies seek to safeguard the open character and appearance of the countryside from development unless there are compelling reasons why a development needs to be located on a particular site within the rural area. The proposal would change the use of land within the open countryside from agriculture to domestic garden and as such does not fall to be considered under any development exceptions listed in Environment Policy 1. Whilst on occasion the Council has granted permission for small garden extensions, the current scheme represents a relatively large incursion into the rural landscape.

In addition to the policy objection to the application as set out above, the intrusion of garden into the countryside could lead to the introduction of ornamental garden plants and related features that would visually change the character of the area from rural to suburban which would be inappropriate and more prominent in the locality.

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.

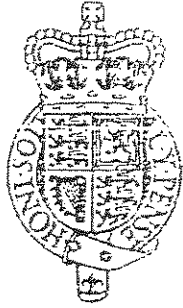
Recommendation

REFUSE permission for the following reason:

Environment Policy 1 of both the Derby and Derbyshire Joint Structure Plan and the South Derbyshire Local Plan reflect advice in PPS7 for the protection of the countryside against unwarranted development. The proposal constitutes development that is neither essential to a rural based activity nor unavoidable in the countryside and therefore to grant permission it would be contrary to Local and National Policies that are adopted for its protection. Furthermore, the planting of ornamental garden plants and related features would result in visual intrusion out of character with the rural locality which would be contrary to Environment Policy 1 (iii) of the adopted Local Plan.

2. PLANNING AND OTHER APPEALS

Reference	Place	Ward	Result
E/2004/294	Hawthorne Farm, Scropton	North West	Dismissed
9/2005/0161	Twyford Road, Barrow-on-Trent	Aston	Dismissed
9/2005/0880	Main Street, Netherseal	Seales	Dismissed
9/2005/0364	Drakelow Road, Walton	Seales	Dismissed



Appeal Decision

Site visit made on 7 December 2005

by **Dr Robin Field** Ph.D MA BSc(Hons) MIEEM ILTM MCMA

an Inspector appointed by the Secretary of State for
Environment, Food and Rural Affairs

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Date

16 JAN 2006

Appeal Ref: APP/HGW/05/282

Site Address Land at Hawthorn Farm, Scropton, South Derbyshire

- The appeal is made under The Environment Act 1995, Section 97 and The Hedgerows Regulations 1997, Regulation 9 against a Hedgerow Replacement Notice.
- The appeal is brought by Mr Alan Critchlow against the notice issued by South Derbyshire District Council.
- The Hedgerow Replacement Notice Ref: E2004/294 dated 17 June 2005 requires: the planting of hedgerows consisting of 80% Hawthorn, and 20% mix comprising of the following: Holly, Blackthorn, Hazel and Wild Rose. Whips (30cm in height) should be planted in double staggered rows with 6 to 8 plants per metre with approximately 40cm between the rows. Planting should take place in between November and March, preferably late November, and must be in place by 31 March 2006.
- The Notice relates to land situated at Hawthorn Farm, Scropton. The hedgerows which have been removed are situated along the red lines on a plan annexed to the notice.
- The criteria given for determining that the hedgerows are important is: the hedgerows have been removed in contravention of regulation 5(1) of the Hedgerow Regulations 1997.

Summary of Decision: The appeal is dismissed and the Hedgerow Replacement Notice is amended

Points of clarification

1. There are three hedgerows concerned in this appeal and for ease of clarification I have lettered the north/south hedgerow A, the east west hedgerow to the south west of A is lettered B and the east west hedgerow to the north of A is lettered C. Hedgerow A still exists for one third of its length while nothing remains of hedgerows B and C.

Grounds of appeal

2. Hedgerow A, according to the appellant, had in part never been a hedgerow since his father took over the farm in the 1950s and was in fact a ditch with a wire fence along part of the disputed length and a hedge (still in existence) along the rest.
 3. Hedgerows B and C, according to the appellant had been very gappy and once he had removed the Elder, under good agricultural practice, contained only occasional sections less than 20m in length and with gaps over 20m. The appellant had then removed what remained in 2003 to improve the environment, management and profitability of the farm.
-

The key issues

4. The power to issue a hedgerow replacement applies whether the hedgerow that has been removed was important or not. In this case the historical evidence demonstrates any hedges that may have existed when the Hedgerow Regulations came into force would have been important under s5(a). Accordingly what needs to be established is whether hedgerows existed on the sections in question.
5. The other issue is whether there is sufficient justification to accept the loss of important hedgerows, based on the need to improve the environment, management and profitability of the farm.

Appraisal

6. The Hedgerow Regulations seek to retain historical hedgerows that pre-date the Inclosure Acts. The circumstances in which their removal might be allowed are likely to be exceptional. As set out in *The Hedgerows Regulations 1997 A Guide to the Law and Good Practice*, cases involving personal financial loss are unlikely to be sufficient to justify the grubbing out of an important hedgerow. Also, the impact on a business would have to be extremely serious to justify the removal of an important hedgerow.
7. In this case, the removal of hedgerows B and C did increase the field size and help with farming operations. However The Hedgerow Regulations 1997 State that (part 3.16 *The Hedgerows Regulations 1997 A Guide to the Law and Good Practice*) 'taking out selected individual woody species may ... amount to removal of a stretch of hedgerow'. Here the removal of the Elder by the appellant left only occasional bushes and when these were then removed later it amounted to the removal of the hedgerows. Although the appellant thought he was acting in 'good agricultural practice', in fact removal of Elder should take place as part of restoration work (part 4.15 *The Hedgerows Regulations 1997 A Guide to the Law and Good Practice*) and not as a precursor to hedge removal. Accordingly hedgerows B and C were removed unlawfully.
8. At the site visit hedgerow A did exist for about one third of its length as suggested by the appellant. Seven mature trees marked the length of the boundary. These are clearly seen on the aerial photographs provided by the Council and the appellant, but the hedge along the northern two thirds of the boundary is not clear. Having visited the site I noted that the hedgerows on opposite sides of this field (north/south hedgerows) were very thin and weak, supporting the appellant's claims. In the Council's evidence (3.2 and 3.3), they also concede that they would have no objections to the Notice being varied to remove this boundary from the Notice. I can see no evidence that a hedgerow was removed from here. Accordingly there is nothing to suggest a replacement is necessary here.
9. I have taken account of all other matters raised in this appeal including the information provided by the appellant on how he runs his farm in an environmentally friendly way and that he has planted many metres of hedgerows on the farm. However, I have found nothing which outweighs the considerations leading me to my decision.

Formal Decision

10. I hereby direct that the Hedgerow Replacement Notice be modified by:

- An amended plan (attached) showing only the two east west hedgerows, B and C, that need replacing marked in red

WHEN THIS NOTICE TAKES EFFECT

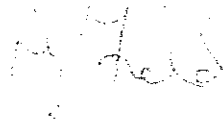
- *This Notice takes effect on the date of this Appeal Decision*

TIME FOR COMPLIANCE

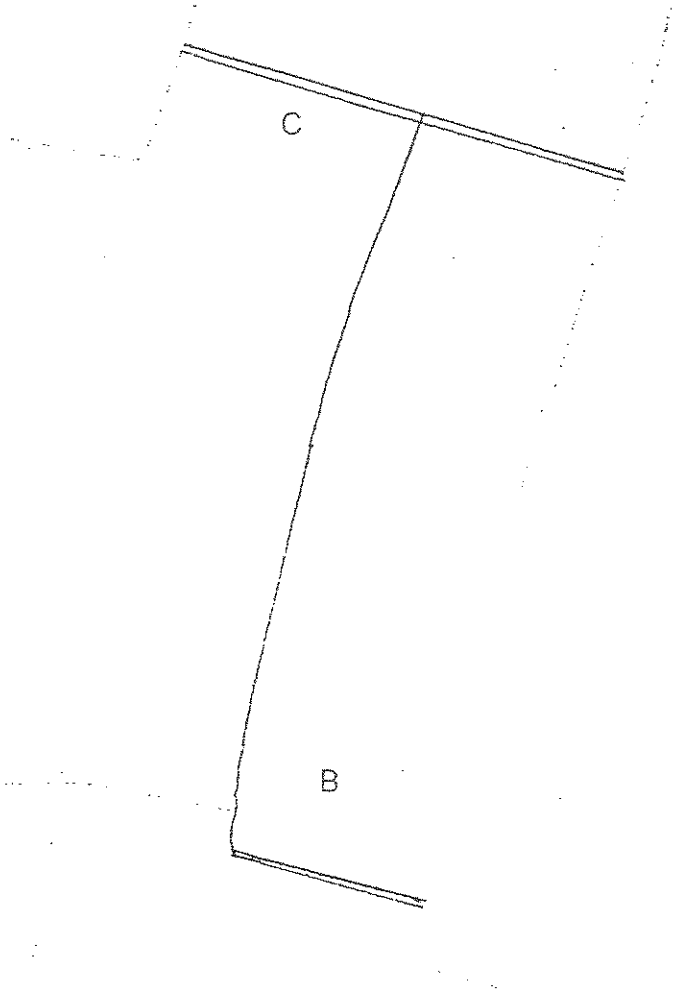
Between October and December 2006 and must be in place by 31 December 2006

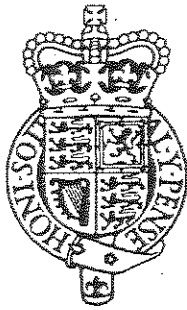
11. I dismiss the appeal and uphold the Hedgerow Replacement Notice as modified.

Inspector



Plan of hedgerow replacements





Appeal Decision

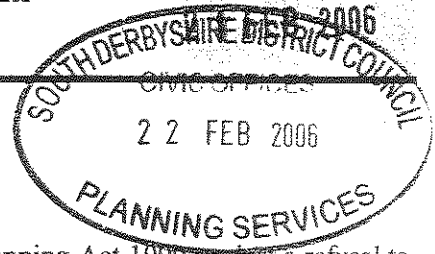
Hearing held on 7 February 2006

by **D Roger Dyer** BA DipArch RIBA FCI Arb Barrister

an Inspector appointed by the First Secretary of State

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Temple Quay House
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Bristol BS1 6PN
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e-mail: enquiries@planning-spectatorate.gsi.gov.uk

Date



Appeal A Ref: APP/F1040/A/05/1188209

Poplars Farm, Twyford Road, Barrow-on-Trent DE73 1HJ

- 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 Boughton Turf Management against the decision of the South Derbyshire District Council.
- The application ref: 9/2005/0161/U dated 7 February 2005 was refused by notice dated 23 June 2005.
- The development proposed is: "The change of use of agricultural buildings to the storage of plant, equipment and materials required in connection with a turf maintenance business".

Summary of Decision: The appeal is dismissed.

Appeal B Ref: APP/F1040/C/05/2003709

Unit 2 Poplars Farm, Twyford Road, Twyford, Barrow-on-Trent DE73 1HJ

- 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 Boughton Loam Ltd against the enforcement notice issued by the South Derbyshire District Council.
- The Council's reference is RMS/E2004/287.
- The notice was issued on 11 August 2005.
- The breach of planning control as alleged in the notice is "the unauthorised use of the land and buildings for the storage of plant, equipment and materials".
- The requirements of the notice are:
 1. The use of the land and buildings for the storage of plant, equipment and materials to cease.
 2. The plant, equipment and materials brought onto the site for the purpose of that use to be removed".
- The period for compliance with the requirements is 28 days.
- The appeal is proceeding on the grounds set out in section 174(f) and (g) of the 1990 Act.

Summary of Decision:

The appeal is dismissed and the enforcement notice is upheld as varied in the Formal Decision below.

Preliminary Matters

1. Planning permission for two of the buildings that are the subject of these appeals was granted in 1991 as a replacement for former agricultural units. Permission was granted for an extension to form an agricultural building in January 2005. It appears that from some time prior to 2004 the appellant had been occupying the premises for its present purposes, which is for the storage of plant, mainly small tractors and more specialised

equipment and for some maintenance work on the equipment. It applied for planning permission for the retention of that use and for Class B1 purposes but following receipt of objections to noise arising from the appellant's activities, the application was changed to B1 only. Permission was granted on that basis subject to a condition limiting the hours of use to 0800 hours to 1800 hours on Monday to Friday and 0800 hours to 1300 hours on Saturday and at no time on Sundays or Bank Holidays. The application that is the subject of the section 78 appeal seeks to revert to the purposes for which the premises are used without conditions on hours of use.

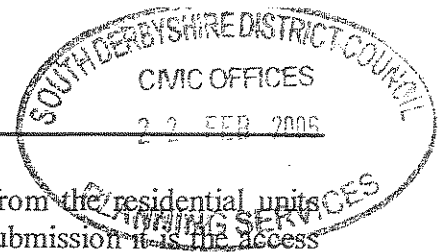
Appeal A: the section 78 appeal

The main issues

2. The principal consideration in this case is the effect of activity generated by the use on nearby residential properties with particular reference to early morning noise.

Reasons

3. The appellant's business is said to specialise in the refurbishment of high quality turf. This work is carried out on its customers' site so that the appeal premises are used only for the purposes described above. The appellant's case is that permission for B1 use in respect of the site has already been granted and settled. Besides, my attention has been drawn to 'Economy Policy 5' in the Derbyshire Structure Plan, adopted in 2001, in which the re-use or adaptation of buildings for use by small scale businesses and distribution uses will be permitted where injury is unlikely to be caused to local amenities. The South Derbyshire Local Plan, adopted in 1998, makes similar provisions at 'Employment Policy 4'. Government policy is stated in PPS7 to support the re-use of appropriately located and suitably constructed buildings in the countryside.
4. It is said on behalf of the appellant that it has been established by its expert's report that the noise generated by the vehicles using the farm track for access is less than that of passing traffic on the class A road which fronts the residential property. The appellant submits that the previous agricultural use also generated significantly more early morning vehicle movements than the current use and the continuance of this quasi-agricultural use is therefore reasonable. Adjoining the appellant's buildings is an agricultural building that may generate similar noise.
5. Staff employed by the appellant are former agricultural workers so employment is provided in a sector that is in general decline and it is said that any incident of minor potential nuisance has to be balanced against the generation of rural employment. The appellant believes that it would be impossible to sustain a depot on an industrial estate in urban surroundings. In any event the appellant says that administration is carried out elsewhere and the site is not occupied during the day under normal circumstances apart from occasional maintenance and cleaning of equipment.
6. The buildings themselves are of recent construction and have replaced traditional buildings that were made redundant after changes in the farming system. The earlier buildings have been converted to residential use. The main issue is whether the necessary early morning starts would cause disturbance. As indicated above a report on environmental matters concerning noise affecting local residents has been prepared to counter objections. The appellant's case is that the report demonstrates that the noise



from the buildings is insignificant as the doors face away from the residential units while the forecourt is similarly shielded. In the appellant's submission it is the access drive passing close to the residential units and the access to the main road that has the potential for nuisance but the report indicates that traffic leaving the premises would not normally generate complaints. Since the report was produced the appellant says it has taken measures to minimise early morning disturbance. Besides, owners of dwellings in the conversion scheme would have been aware of the potential for noise from the access drive and farming operations before deciding to purchase.

7. While the Council acknowledges that development plan policies and PPS7 encourage the re-use of rural buildings for business purposes, it says those policies are subject to safeguards against injury to local interests. It has drawn my attention to PPG24 which advises that the character of noise as well as its level should be taken into account and, in particular, identifies the hours that people normally sleep. In this case the appellant made clear to the Council that a condition limiting the hours of use would not be acceptable. However the Council regards the need to protect the amenities of near neighbours as the key issue in this case. Local residents had indicated to the Council that use of the buildings usually starts at 0500 hours with a good deal of disturbance.
8. The Council says the noise report submitted by the appellant had assumed a distance of 140m from the appeal building to the nearest dwelling but there are residences as close as 75m or so. Besides the tests had been taken in winter and had been confined to specific noise generating sources. They did not test the range and intensity of noise likely when the business is busiest, for example spring and summer. The noise arising from loading vehicles with sudden impulse noise and voice communications could produce disturbance before the normal waking hour of 7.00am.
9. In my judgement it is the nature of the business with the need to make an early start on a regular basis that is the defining aspect of this case. Not all the local residents have complained and among those who have not are the occupants of dwellings nearest to the buildings that are the subject of this appeal. At my site inspection I was given a demonstration of vehicles moving, including a lorry and tractor, as well as a spray that is used for cleaning equipment. However I found it was impossible to assess the effects of the sound produced when background noise, particularly traffic on the main road, could not reproduce the effect of early morning activity.
10. Nevertheless I saw that the appellant company has a range of equipment and vehicles that would have to be manoeuvred on site. Although I was told that the lorries are loaded up the night before leaving for a site, roller shutter doors have to be operated in the morning and at the same time there would be a good deal of oral communications between the operatives that would disturb local residents. Then there is the operation of the gate to the premises, which is located close to the dwellings. Although the gate has been adapted with a small rubber buffer, I observed that opening and closing the gate produced sharp noise capable of disturbing residents' sleep.
11. I accept that the premises are suitable for B1 use but subject only to the conditions that the Council has imposed. I can see no valid reason for varying that condition in the circumstances of this case. It follows that the section 78 appeal must fail and I shall not grant planning permission for the change of use sought.

Appeal B: the appeal on ground (f)

12. It is said for the appellant that if the Council is right that the use being carried out is a storage use, as indicated in the enforcement notice, then the breach of control is so marginal as not to warrant enforcement action. The size of each building is just above the change from B1 to B8 permitted by the Use Classes Order and the GPDO. As the change of use permitted by the GPDO does not appear to "take with it" the conditions on the original B1 permission, there would be no control over the use of the buildings for storage. The appellant proposes to establish the permitted B1 use, then partition off an area to bring the buildings within the size allowed for the change of use in the GPDO so that it can establish storage use. The implications are twofold: first, the storage use would not prevent an owner bringing stored material in and out at any time of the day or night and, secondly, a variation of the enforcement notice to prevent the appellant company from occupying the buildings would be unreasonable, especially as the company could store materials and equipment here and carry out cleaning and maintenance elsewhere. As that course of action would not remedy the activity complained of, the requirements of the notice would be excessive and the notice should be quashed.
13. As I have indicated above, the conditions controlling the hours of use at the appeal site are an important part of protecting the residential amenities of neighbours. The present use appears to be 'sui generis' as confirmed in the application made for permission by the appellant. Accordingly, while the appellant may be able to demonstrate how a change of use to B8 may be implemented, the process of that change would be too remote from the present situation for me to vary the terms of the notice to take account of that possibility. In the circumstances the appeal on ground (f) must fail.

Appeal B: the appeal on ground (g)

14. The appellant considers that it would be unreasonable for any business to be expected to relocate in a period as short as 28 days. Relocation of this business is such that its economics would not support the rent and rates payable in an urban location. The use is quasi-agricultural and relies on the rural economy to prosper. The supply of agricultural buildings with planning permission for this sort of use is restricted especially as farm diversification schemes rarely seek such permission. The period of compliance should allow time to seek other premises, negotiate terms, obtain planning permission for the use and fit out the building found. The period specified in the notice should thus be extended to 12 months.
15. For my part, it is necessary to secure the abatement of the harm to residential interests that I have identified above as speedily as possible. Nevertheless there is some merit in the appellant's arguments on this ground and a reasonable period must be established for the necessary measures to be put in place. I am not persuaded that 12 months is necessary because I am told that the company has other premises but I shall vary the period set out in the notice for compliance to 4 months. To that limited extent the appeal on ground (g) succeeds.

Conclusions

16. For the reasons given above, and having regard to all other matters addressed to me, I have come to the conclusion that these appeals must fail and that the enforcement notice should be upheld as varied. In reaching my decision I have taken account of everything brought to my attention at the hearing and in writing but I have found nothing that

outweighs the main planning issues of this case.



Formal Decisions

Appeal A

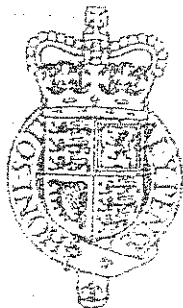
17. The appeal is dismissed.

Appeal B

18. I direct that the enforcement notice be varied by the deletion of the words "28 days" and the substitution therefor of the words "4 months". Subject thereto I dismiss the appeal and uphold the enforcement notice.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

INSPECTOR



Appeal Decision

Site visit made on 3 January 2006

by **P H Bentham-Hill** BA MRTPI

an Inspector appointed by the First Secretary of State

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Date

8 FEB 2006

Appeal Ref: APP/F1040/A/05/1189919

48 Main Street, Netherseal, Swadlincote DE12 8DA

- 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 R Gibbons against the decision of South Derbyshire District Council.
- The application Ref 9/2005/0880/FH, dated 21 July 2005, was refused by notice dated 16 September 2005.
- The development proposed is the formation of an access at 48 Main Street, Netherseal.

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

Procedural Matters

1. The description of the application has been taken from the decision notice and appeal forms. However, I consider that the application is for the minor realignment of the existing access. The dropped kerb opposite 44 Main Street and the proposed railings on the frontage to that property as shown on the application plans are outside the appeal site and cannot be considered as part of the application.

Main Issue

2. I consider that the main issue in this appeal is whether the proposed development would have an adverse effect on highway safety.

Planning Policy

3. The Council has not drawn my attention to any relevant provisions in the development plan.

Reasons

4. The approved car parking and turning arrangements for 48 Main Street were determined at a time when the highway frontage was obscured by a store and the only access was by means of the shared use of the driveway to No 44. The demolition of the store and the opening up of the frontage presents an entirely new situation in which it would be illogical to retain the approved arrangements.
5. The area available for the parking and turning of vehicles within the appeal site is now greater than was originally the case and, notwithstanding the appellant's claim that it is not possible to use one of the two garages, a re-assessment of the situation is called for. The re-positioning of the access as proposed would enable minor changes to be made to the parking situation on both the appeal site and on adjacent land.

6. The County Council is concerned that the proposal would result in an increased potential for vehicles to reverse to or from the classified road. However, the potential for reversing manoeuvres already exists and I do not consider that it will be made any worse by the proposed access. On the contrary, the proposal is likely to encourage a greater use of the turning area than would the continuation of the present situation.
7. Accordingly, I consider that the proposed development would have not an adverse effect on highway safety.

Conditions

8. The Council has not put forward any conditions for my consideration should the appeal be allowed. I have therefore decided to impose the standard time-limited condition for the commencement of the development. The Parish Council has suggested that the proposed railings should be mounted on dwarf walls. Whilst I consider that this would give more substance to the proposal and would reflect the presence of similar examples elsewhere on Main Street, I am unable to impose such a condition on the frontage to No 44 as this land is not in the appellant's control. In the interests of securing a balanced appearance, it would not, in my view, be appropriate to attach such a condition solely to the appeal site itself.

Conclusion

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

Formal Decision

10. I allow the appeal, and grant planning permission for the formation of an access at 48 Main Street, Netherseal, Swadlincote, in accordance with the terms of the application, Ref 9/2005/0880/FH, dated 21 July 2005, as clarified in paragraph 1 above, and the plans submitted therewith, subject to the condition that the development hereby permitted shall begin before the expiration of five years from the date of this decision.



INSPECTOR



Appeal Decision

Site visit made on 17 January 2006

by **C J Anstey BA(Hons) DipTP DipLA MRTPI**

an Inspector appointed by the First Secretary of State

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Date

27 JAN 2006

Appeal Ref: APP/F1040/A/05/1192661

The Paddock, Drakelow Road, Walton-on-Trent, Swadlincote, Derbyshire, DE12 8NB.

- 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 & Mrs Hill against the decision of South Derbyshire District Council.
- The application Ref 9/2005/0364/F, dated 17 March 2005, was refused by notice dated 13 May 2005.
- The development proposed is 2 detached dwellings consisting of 1 bungalow & 1 house on vacant land, previously garden area.

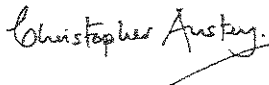
Decision

1. For the following reasons the appeal is dismissed.

Reasons

2. The appeal site, which measures about 0.4ha, is prominently sited on the northern edge of the village of Walton-on-Trent, next to Drakelow Road. It lies within the Walton-on-Trent Conservation Area and just to the south of the Grade II listed building, Barr Hall, a mid 18th century farmhouse. Although it is claimed that the site has been garden area in the past it is clearly now used for grazing. It now forms part of the countryside that surrounds the village. Consequently as it blends into the agricultural landscape it is a greenfield site and not previously developed land.
3. The proposal involves the construction of a detached two-storey, 3 bedroom house and detached double garage on the southern part of the site and a detached 3 bedroom bungalow, with attached double garage, to the north of this. The northern part of the site would be kept vacant for possible future use. Both new dwellings would face towards Drakelow Road and be served from the existing access in the northern corner of the site.
4. *Housing Policy 5: Housing in Villages* of the adopted *Derby and Derbyshire Joint Structure Plan (DDJSP)* makes it clear that in villages new housing development will be restricted to that which can be accommodated within the built framework or wider physical confines of the village as defined in local plans. Such an approach is designed to restrict the amount of new housing in rural areas in order to concentrate most development in urban centres where there is ready access to services, facilities, employment opportunities and public transport links. As a result a more sustainable pattern of development will be created. Furthermore by concentrating development on previously developed land within urban areas the loss of greenfield sites will be minimised and the countryside protected. Such an approach accords with national planning policy.

5. *Housing Policy 5: Village Development* of the adopted *South Derbyshire Local Plan (SDLP)* indicates, in line with the *DDJSP*, that new housing development in Walton-on-Trent will be restricted to that which can be accommodated within its defined village confines. *Housing Policy 8: Housing Development in the Countryside* of the *SDLP* is designed to ensure that outside village confines new dwellings are restricted to those required in connection with rural activities, such as agriculture. The appeal site lies outside the confines of the village and in the countryside as identified on the *Proposals Map* of the *SDLP* and is not connected with any rural based activity. Consequently the appeal proposal is clearly in conflict with local planning policy on the location of new housing development. As there is an adequate supply of land in this part of the County to meet the structure plan housing requirement up to 2011 there is no need to allocate additional housing sites in the area on the grounds of general housing need.
6. *Environment Policies 9 and 10* of the *DDJSP* and *Environment Policies 12 and 13* of the *SDLP* emphasise that new development should preserve or enhance the character of conservation areas whilst the setting of listed buildings should not be harmed. At present the appeal site is an attractive area of countryside lying beyond the main built-up part of the village and to the south of the front elevation of the listed Barr Hall. In its current open and undeveloped state the site makes a significant contribution to the rural setting of the village and provides a green approach to the village. As such it is an important element in the pleasing character of this part of the Walton-on-Trent Conservation Area. Furthermore its open nature contributes to the unspoilt setting of Barr Hall. The proposed scheme would mean that a substantial part of the site would be lost to built development. Such an erosion of this open area of countryside would seriously harm the village's setting, and in turn the character of the Walton-on-Trent Conservation Area, and mar the setting of Barr Hall.
7. On the basis of the information available it is not possible to establish whether visibility to and from the access to the site would accord with relevant guidance. In the absence of such information the appeal scheme is contrary to *Transport Policy 6* of the *SDLP*, which seeks to ensure that new development does not interfere with the free and safe flow of traffic. In view of the vertical and horizontal alignment of the carriageway to the north the existence of the access to Barr Hall does not obviate the need to ensure that access to the appeal site is of an appropriate standard.
8. I have taken account of all other matters raised including the benefits of the scheme for the appellants, possible revisions to the design, the other sites referred to and possible future use. However, neither these, nor any of the other matters raised, outweigh the considerations that have led to my decision.



Inspector